

104
PRIVATIZATION OF THE FEDERAL POWER
MARKETING ADMINISTRATIONS

Y 4. C 73/8: 104-46

Privatization of the Federal Power...

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HEARING
BEFORE THE
SUBCOMMITTEE ON ENERGY AND POWER
OF THE
COMMITTEE ON COMMERCE
HOUSE OF REPRESENTATIVES
ONE HUNDRED FOURTH CONGRESS
FIRST SESSION

JULY 19, 1995

Serial No. 104-46

Printed for the use of the Committee on Commerce



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PRIVATIZATION OF THE FEDERAL POWER MARKETING ADMINISTRATIONS

WEDNESDAY, JULY 19, 1995

HOUSE OF REPRESENTATIVES,
COMMITTEE ON COMMERCE,
SUBCOMMITTEE ON ENERGY AND POWER,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:07 a.m., in room 2322, Rayburn House Office Building, Hon. Dan Schaefer (chairman) presiding.

Members present: Representatives Schaefer, Moorhead, Crapo, Burr, Norwood, Pallone, Gordon, Markey, and Lincoln.

Also present: Representative Klug.

Staff present: Catherine G. Van Way, majority counsel; and Sue D. Sheridan, minority counsel.

Mr. SCHAEFER. The Subcommittee on Energy and Power will come to order for our hearings this morning on the privatization of the Power Marketing Administrations. The Honorable Mark Foley, Member of Congress, is with us today as the first witness.

Mr. Foley, I understand your schedule is tight and that you have to go to a committee mark-up.

Mr. FOLEY. Across the hall, fortunately.

Mr. SCHAEFER. And so what we're going to do is I will not do an opening statement at this time, nor my good friend from New Jersey, and we'll just listen to you to be able to get you in and out of here. So you may proceed Mr. Foley.

STATEMENT OF HON. MARK FOLEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. FOLEY. Thank you very much, Mr. Chairman, and I ask consent to submit my written statement for the record.

Mr. SCHAEFER. Without objection, your statement will be made a part of the record.

Mr. FOLEY. I'd first like to thank the chairman and the subcommittee members for having a hearing on H.R. 1801, the Federal Power Asset Privatization Act, and I appreciate your indulgence with our Science and Space Committee meeting across the hall. We may have votes and I may have to depart.

Now, the focus of this hearing and the purpose of the Speaker's referral of H.R. 1801 to this committee is language in my bill that requires the Federal Energy Regulatory Commission to deal with the sale of the PMA assets. As I understand it, the goal is a dialogue on a post-PMA environment, an environment achieved by

getting the Federal government out of the power generation business, where it should not be.

The FERC has, since implementation of the Energy Policy Act in 1992, been aggressively working to create a competitive electric marketplace. The PMA's, however, continue to slow this process down.

Today the Federal Government is producing and marketing more electricity than any other single entity. I reiterate; the U.S. Government is the largest competitor to non-government companies selling electricity.

Clearly, because of their special preference to PMA power, municipal utilities and rural electric co-ops oppose my legislation. Despite this, I would hope that we could choose to discuss regulatory issues if PMA sales took place. Instead, it is my understanding the opposition has pulled away from the table in a letter dated July 17 to this committee and the chairman from the APPA.

Ironically, their position appears far from resolute. The American Public Power Association, in December, stressed its complete opposition to selling the PMA's. Just last month, however, the APPA took a new position that would only support a transfer like the President has recommended.

The most common reason stated by APPA and the National Rural Electric co-ops in opposing my bill is the possibility of massive rate increases. Yet when the bill included language to protect the current customers from rate shock, they said it added another layer of regulation.

These interest groups recognize the unfair advantage the Federal Government gives them, and they fear losing it. They would rather defend the status quo than come to the table to help move the Nation forward.

The rate issue is important, so I will start there. H.R. 1801 has a rate stabilization mechanism to prevent rate shock to current customers. There are several important clarifications to be made.

First, in a staff memo to prepare your subcommittee for this hearing, it correctly stated that the current regulation of the PMA rates are far different than the private companies that produce and sell power. To quote FERC Chair Moler in her testimony before the Resources Committee, "We do not evaluate PMA rates under the traditional just, reasonable, and non-discriminatory standard applied to public utilities." This signifies a very unfair advantage when compared to non-governmental power producers.

Second, current consumers are the preference customers—generally rural co-ops and municipal utilities. They are not residential customers, or the households. The households buy retail from the preference customers of the PMA's. In addition, some preference customers are large industrial plants, like aluminum plants in Northwestern United States.

Residential customers, in most cases, pay more in retail rates than preference customers pay the PMA.

Third, the PMA rates are below the average market rate, in some cases as much as 170 percent below average market rate. This government-created "at cost" rate is the reason rate increases may occur. Americans who live in Boston, New York, Newark, Miami,

Indianapolis, Chicago, or Detroit will not have any rate impact because they are not served by any PMA's.

Finally, the rate cap in my bill states, "Not greater than 10 percent annually." This does not mandate 10 percent increase. It mandates a maximum increase that, through contractual obligation, could also be made at a rate less than 10 percent. The Secretary of Energy, in implementing these sales, could make it 2 percent or 7 percent.

In regard to regulation of hydroelectric facilities, section 6 of my bill mandates that FERC issue an original license under Part 1 of the Federal Power Act. By having FERC issue a temporary license at the time of the sale, this section keeps the Federal assets purchase viable.

This temporary license requires standard hydro regulations be upheld. In doing so, we would not allow any major changes to the operations of the asset.

The time for this interim license would be 10 years. This time frame is consistent with the time FERC would need to issue new, specific facility licenses, as was testified by FERC's Chair, Ms. Moler, at the Resources Committee.

H.R. 1801, with regard to electricity transmission, will allow all non-government power producers access to the sale. I believe it can be assumed that FERC would apply the proper existing regulation to any entity that purchases the transmission asset. These regulations would, of course, be consistent with recent rules of FERC that would completely open up the Nation's transmission lines.

Important to note, however, is that under existing law, the PMA's have a separate set of rules that are far less regulatory; again, an unfair advantage in this day of competition.

I hope this statement clarifies the regulatory aspects of my legislation. Further, I hope it provides some insight to my belief that the PMA's must be eliminated.

Again, I thank the subcommittee for the vision they have shown in trying to look ahead to a day when the Federal Government no longer competes with an already competitive private sector.

When some Americans, simply by virtue of where they live, are given special privilege not afforded the rest, it is, in fact, unfair. This unfairness must be remedied. H.R. 1801 takes the first step, and I urge your support of this bill. Thank you, Mr. Chairman.

[The prepared statement of Hon. Mark Foley follows:]

PREPARED STATEMENT OF HON. MARK A. FOLEY, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF FLORIDA

I would first like to extend my thanks to Chairman Schaefer and the Subcommittee members for having a hearing on H.R. 1801, the Federal Power Asset Privatization Act. The ongoing discussions on the privatization of the Power Marketing Administrations (PMA's), while controversial, are essential as this new Congress investigates restructuring the Federal bureaucracy.

The focus of this hearing, and the purpose of the Speaker's referral of H.R. 1801 to this committee, is language in my bill that requires the Federal Energy Regulatory Commission (FERC) to deal with the sale of PMA assets. I do, however recognize that this committee will pursue additional topics regarding the sale. As I understand it, the goal is a dialogue on a post-PMA environment. Mr. Chairman, it is a post-PMA nation that is my ultimate goal. This goal is based on a simple principle; do what is best for the American taxpayer. This is done by getting the Federal government out of the power generation business. Instead of serving a special few.

As a freshman in the 104th Congress, I have to look at existing law and see if it serves the best interest of the nation. In 1992, the Congress and the President agreed to a comprehensive Energy Policy Act. Much of this law works. Particularly, the aspects of this bill that opened up electric markets to competition. The FERC has, since implementation of the Energy Policy Act, been aggressively working to create a competitive electric market. The PMA's, however, continue to slow this process down. Today, the Federal government is producing and marketing more electricity than any other single entity. I reiterate, the U.S. government is the largest competitor to non-government companies selling electricity.

Washington representatives of the municipal utilities and rural electric cooperatives oppose my legislation. Despite this, I would hope, that they would choose to discuss regulatory issues if PMA sales took place. Instead, it is my understanding, their opposition to the sale has pulled them away from the table. Ironically, their position appears far from resolute. The American Public Power Association (APPA) in December stressed a complete opposition to selling the PMA's. Just last month, however, the APPA took a new position that would only support a transfer like the President has recommended. The most common reason stated by APPA and the National Rural Electric Cooperatives Association (NRECA) in opposing my bill, is the possibility of massive rate increases. Yet, when the bill included language to protect the current consumer from rate shock they said it "added another layer of regulation." These special interest groups recognize the unfair advantage the Federal government gives them and they fear losing it. They would rather defend the status quo, than come to the table to help move the nation forward.

The rate issue is important, so I will start there. H.R. 1801 has a rate stabilization mechanism to prevent "rate shock" to current consumers. There are several important clarifications to be made:

First—The in a staff memo to prepare your subcommittee for this hearing it correctly stated that current regulation of the PMA rates are far different than the private companies that produce and sell power. To quote FERC Chair Moler in her testimony before the Resources Committee "we do not evaluate PMA rates under the traditional just, reasonable, and non-discriminatory standard applied to public utility rates." This signifies a very unfair advantage when compared to non-governmental power producers.

Second—current consumers are the preference customers, generally rural co-ops and municipal utilities. They *are not* residential consumers (households). The households buy retail from the preference customers of the PMA's. In addition, some preference customers are large, industrial plants (like aluminum plants in the North-western United States). Residential consumers, in most cases, pay more in retail rates than the preference customers pay the PMA.

Third—The PMA rates are below the average market rate. In some cases, as much as 170 percent. This government created "at cost" rate is the reason rate increases may occur. Americans who live in Boston, New York, Newark, Miami, Indianapolis, Chicago, or Detroit will not have any rate impact *because* they are not served by any Power Marketing Administration.

Finally—the rate cap in my bill states "not...greater than 10 percent annually." This does not mandate 10 percent. It mandates a maximum increase that, through contractual obligation, could be made less than 10 percent. The Secretary of Energy implementing these sales could make it 2 percent or 7 percent.

The next serious issue in the sales proposed in my bill is regulation of hydro-electric facilities. Section 6 of my bill mandates that FERC issue an original license under part 1 of the Federal Power Act. By having FERC issue a temporary license at the time of the sale, this section keeps the Federal assets worth purchase. This temporary license requires standard hydro regulations be upheld. In doing so, would not allow any major changes to the operations of the asset. The time for this interim license would be 10 years. This time frame is consistent with the time FERC would need to issue new, specific facility licenses—as was testified to by FERC's Chair Elizabeth Moler at the Resources Committee.

H.R. 1801 has no specific language to deal with regulation of electricity transmission. Because my legislation will allow all nongovernment power producers access to the sale, it can be assumed that FERC would apply the proper existing regulation to the entity that purchases the transmission asset. These regulations would, of course, be consistent with recent rules of FERC that would completely open up the nation's transmission lines. Important to note, however, is that under existing law the PMA's have a separate set of rule that are *far less* regulatory. Again, an unfair advantage in this day of competition.

I would like to make a final point about my legislation. While this is not intended to be a debate on selling the PMA's, many (including some on this committee) ask "why should this be done?" I have alluded to some of the reasons and will end with

the best example against government involvement in this industry. The Flood Control Act of 1944 set the guidelines by which the PMA's were to operate. It mandated that they operate "consistent with sound business principles..." The Salt River Project is a preference customer of PMA power located in Arizona. The Salt River Project is a not for profit entity. It is exempt from federal revenue taxes on the power it sells. Is it simply selling the power it receives to its consumers? No. As its Third Quarter report of revenues indicates, it also sells excess power to another not for profit at a 67 percent markup! Plain English: The American taxpayer is unwittingly adding to and subsidizing the coffers of a "non-profit", non-taxpaying entity. I can only think of one reason for this madness; Federal bureaucrats are not interested in sound business practices. On behalf of the American taxpayer, this must be stopped.

I hope this statement clarifies the regulatory aspects of my legislation—H.R. 1801. Further, I hope it provides some insight to my belief that the PMA's must be eliminated. Again, I thank the subcommittee for the vision they have shown in trying to look ahead to a day when the Federal government no longer competes with an already competitive private sector. When some Americans, simply by virtue of where they live, are given special privilege not afforded the rest—it is *unfair*. This unfairness must be remedied—H.R. 1801 takes the first important step and I urge your support. Thank you.

Mr. SCHAEFER. The Chair and the committee thank the gentleman for his remarks. I just have a couple of brief questions and I will turn to other members.

Mr. Foley, does your legislation provide for the licensing of any dams or associated power generation facilities which would be sold?

Mr. FOLEY. Yes, it does. Due to section 6, it would provide that.

Mr. SCHAEFER. And does your legislation address the issue of transmission access under the Federal Power Act?

Mr. FOLEY. Yes, it does, sir.

Mr. SCHAEFER. What is the current time line for privatizing PMA's, once legislation is passed, and how long will it be before the sales actually occur in your legislation?

Mr. FOLEY. We have a schedule basically that would show completion of all sales before September 30 in the year 2000.

Mr. SCHAEFER. And does your bill provide for rate protection for existing PMA customers? As you indicated, this is a big concern out there, that there's going to be increased rates.

Mr. FOLEY. Absolutely. In fact, we were adamant about having some rate cap because we did not want the consumers to be unfairly burdened or have rate shock instantly.

We put the cap at 10 percent. Obviously, any number you adjust or set as a rate cap will affect the sale and the revenues derived from the sale because it will be based on a pricing, but that is a very important component of the bill that should give every Member of Congress comfort to tell the constituents that there is protection from a massive rate increase.

Mr. SCHAEFER. I thank the gentleman and would turn to my good friend from New Jersey, Mr. Pallone.

Mr. PALLONE. Thank you, Mr. Chairman.

I don't know a great deal about the PMA's but it seems to me there has to have been some original reason why these were set up the way they were, with the Federal Government ownership. You know, I don't assume that whenever they were set up, whoever was doing it was just doing it for some foolish reason.

Tell me why things have changed. And also, are we just talking about electricity or is there some reason why the Federal Government should own them, you know, for irrigation or flood control or other purposes?

In other words, is there a reason why, over the last 30, 40, 50, how many years, that we no longer need to own them?

Mr. FOLEY. Well obviously, in the frontier pioneer spirit, electricity wasn't brought to a lot of consumers in rural areas. But the dynamics have changed. Electrification occurs throughout our Nation now.

Our Nation had to embark on the initial electrification of areas that a private or investor-owned utility was simply not interested in providing, but that has significantly changed. We are seeing a day of competition, where we're opening up transmission lines. We're doing what's called wheeling of power, allowing consumers to have access to the best possible pricing.

So the need for the PMA's really no longer exists, as we've developed as a Nation.

The flood control and irrigation will not change. In fact, the Federal Government must maintain that provision to maintain ownership and control of that. So the PMA legislation would not allow anything to occur to our dams, our ability to irrigate crops or lands, or provide flood protection. So that would remain within the Department of Interior and remain the purview of the Federal Government. So PMA legislation does nothing to that ability.

Mr. PALLONE. Okay. But what you're assuming, then, you're saying essentially that there's sufficient competition out there now so that this underlying reason, which was lack of competition, is no longer there.

Do we have—I guess hopefully we're going to get testimony today to that effect, but do you want to comment on that a little bit? Are you just totally convinced that we have sufficient competition in every part of the areas where these are serving?

Mr. FOLEY. I feel very comfortable in the fact that they will still be served by whoever is the resultant purchaser of the power. By putting it out—and again, what we talk about in our bill is allowing an independent agency to come in and review the asset, to make a determination of values.

We're going to have to look at the structure of the regulatory aspects, because each PMA is different. A PMA in the Northwest may have some restrictions on environmental issues and what have you. So everything has to be looked at at face value.

The customers, the rural electric co-ops and the municipals and others, may, in fact, be interested in purchasing these. They're not prohibited from participating in the acquisition of the asset and continue to do business as they have been doing business.

What we're saying is that in today's day and age, there should be a value for the asset, the taxpayer should no longer subsidize the rates to consumers, that we do, in fact, derive an income from the sale because once it's sold, if it's an investor-owned or some other form of utility, the highest and best bid, they would, in fact, pay taxes on the generated power. So the government would have an additional stream of income, not only from the sale, but also from the generation of power.

Mr. PALLONE. Now, I know you feel that you've addressed the issue of ratepayers—I'm sure we're going to hear more about that—by saying that this maximum of 10 percent cap in the bill states

that the Secretary, in implementing the sales, could make it 2 percent or 7 percent or less than 10 percent.

But then you talk about these preference customers, large industrial plants. I'm looking at your written testimony here. I guess one concern I have, and I don't know—I'm assuming here that probably New Jersey is in no way impacted by any of this, but I think of the fact that in New Jersey, we've had situations where plants have had to shut down because of the price of electric power.

So I don't want to downplay the fact that not only household consumers may be impacted but also industrial consumers. I mean, if that means that plants close and we lose jobs, that's a problem, as well.

Did you want to comment on that? I mean, forget the Northeast situation because I don't think it applies, but just in general, you say, "In addition, some preference customers are large industrial plants."

Well, I don't want to see them close.

Mr. FOLEY. Right. And jobs and the economy are certainly important to this Member of Congress.

Mr. DeFazio, in arguing against the PMA's in another hearing, suggested that the PMA's were, in fact, losing customers because the rates that they were charging some of their industrial users were in excess of what was available from the investor-owned utilities.

So it cuts both ways. In the Northwest, they've had the nuclear plant problems and the bond financing and other things that have caused their costs to be exacerbated.

So in some cases you may see, with the opening of competition and what they call wheeling, an opportunity for a customer to select a power company of choice who delivers the best rate, to blunt any concern of the impact on companies.

So you have to look at it both ways. With opening up the lines, they may, in fact, get better rates than are currently available, and competition provides that.

Mr. PALLONE. Okay. Thank you. Thank you, Mr. Chairman.

Mr. SCHAEFER. Just one quick question. Your legislation does not include Bonneville?

Mr. FOLEY. Yes, it does.

Mr. SCHAEFER. It does include Bonneville.

At this time I recognize the fact that we do have Mr. Klug from Wisconsin here who's a member of the full committee, but who is not a member of the subcommittee. He's more than welcome to sit in on this. This issue has been very important to him for some time, not only the issue we are discussing here, but privatization itself. In keeping with the committee's policy, he will be recognized after the members of the sitting subcommittee have been recognized.

So I will turn now to the gentleman from North Carolina, Mr. Burr.

Mr. BURR. Thank you, Mr. Chairman.

Thank you, Congressman. Let me go back to something, Mark, that you just said: taxpayers should not subsidize the rates any longer.

When we sell PMA's, is it true that when we put restrictions in that legislation, and in your particular case I think you call for no more than a 10 percent annual increase in the rate shock; when we put that restriction in, do we not devalue the sale price of the PMA's?

Mr. FOLEY. No question. Any time you put a rate regulatory mechanism on a sale, much as in real estate, if you cap its income stream, you are going to set a market price that may be less than the asset is worth. I think you have to bring a balance in the bill in order to achieve a sale, and, at the same time, give some consumers some price relief.

Mr. BURR. But the statement that we're no longer going to subsidize, I mean, the fact is that if we put that in, we will subsidize up front because we won't receive as much revenue for the sale as we would if we didn't have a rate restriction out there.

So in fact, that's a wash. That pretty much—

Mr. FOLEY. Not a complete wash, no. You're going to derive a value far in excess, even with the cap on it, of what we currently hold. We have merely a sale of electricity to PMA's that are then selling it downstream to their customers. We're not getting full reflection of value, nor income for the Federal Government.

Mr. BURR. I know you said in your statement, your second point, that they are not residential consumers, that these are preference customers—households buy from preference customers.

I come from an area that is 70 percent rural, where many people receive their power via PMA's and from electric co-ops and it would be a significant shock. And that's why I'm concerned. I know that we're past the sale point and we're talking about post-sale.

How does your bill treat the debt that's out there? There's a debt that each PMA has. Do you look to the people who purchase these facilities to assume that debt, or is that something that we, as a government, will write off?

Mr. FOLEY. No, it would have to be figured into the sale. You'd have to take a full financial equation, look at the cost of the facility currently to operate. You'd have to look at any debt that may be attached to the facility, looking at resolving and amortizing the debt and bringing about that total purchase price.

Mr. BURR. From your calculations how costly were PMA's to the Federal Government?

Mr. FOLEY. How costly were they to currently operate? I couldn't give you a breakdown on that.

Mr. BURR. Don't feel bad. It took DOE a while to come up with several sets of numbers.

How would your bill treat the government's ability to purchase low power, low-cost power?

Mr. FOLEY. You mean as a recipient of the power, once they're sold? They'd be a standard customer, like anyone else.

Mr. BURR. So they would go under a different set than where they are today.

Mr. FOLEY. Correct.

Mr. BURR. Would there be a rate cap on them?

Mr. FOLEY. There would be the same terms and conditions. They'd be a customer like everyone else.

Mr. BURR. Thank you. I yield back, Mr. Chairman.

Mr. SCHAEFER. The Chair would recognize the gentlelady from Arkansas, Mrs. Lambert Lincoln.

Mrs. LINCOLN. Thank you, Mr. Chairman. I'd like unanimous consent to enter my opening statement in the record.

Mr. SCHAEFER. Without objection. We have not done opening statements as of yet because Mr. Foley has another mark-up going.

Mrs. LINCOLN. Not a problem. I'll do it anyway, just submit it for the record.

[The opening statement of Hon. Blanche Lambert Lincoln follows:]

OPENING STATEMENT OF HON. BLANCHE LAMBERT LINCOLN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARKANSAS

Mr. Chairman I appreciate your holding this hearing today on this very important issue. While proposals to privatize the PMA's are not new, I do believe that this effort is serious and could have far reaching effects on electric consumers. I want to note that while I do not necessarily support the context of this hearing, which is to assume that PMA sale has occurred, I welcome any opportunity to discuss this ill-advised scheme in a public forum. It is only upon closer inspection of the PMA privatization plans that the American public can begin to learn that the short-term savings of a sale are not worth the long-term risks. However, the Administration has endorsed privatization, the House Budget Resolution included a PMA proposal, and several bills have been introduced that address this topic. In addition, the Resources Committee is actively considering implementing legislation for privatization. In light of the budget crisis and the frantic scramble to find money anywhere, I am concerned that this horrible idea could actually become law and I applaud you Mr. Chairman for holding this forward-looking hearing on the regulatory effects that this proposal could have.

I want to reiterate my concerns that this idea is fundamentally flawed. The Power Marketing Administrations are currently returning revenue to the Federal Treasury in accordance with their payment schedule. While there may be a short term increase in revenue as the result of a sale, long term savings are dubious, if not non-existent. This is precisely the type of short-sighted thinking that handed us the \$5 trillion debt that we are now struggling to eliminate. Proponents of privatization optimistically assume a savings of between \$3 and \$7 billion from the sale. Lets take them at their word and look at what we get for a maximum of seven billion dollars: a long-term loss of revenue to the Federal Treasury due to the absence of repayment by the PMA's; a regulatory quagmire over licensing, transmission access, and responsibilities for the navigation, flood control, and conservation considerations that are inherent in these facilities; and a potential rate increase to consumers somewhere in the range of 50% over five years. Wow, what a deal!

Mrs. LINCOLN. I don't know if I'm making a correct assumption or if you're indicating in your bill that you are assuming that all of the dams that are affected will be licensable by FERC. Do we know, or could it be possible that they would basically flunk the Federal Powers Act test?

Mr. FOLEY. That I can't answer.

Mrs. LINCOLN. But what are you assuming?

Mr. FOLEY. Under the bill, you have a 10-year opportunity to analyze those to see if they comply from the initial licensing period.

Mrs. LINCOLN. What do we do in the meantime? I mean, you're giving them 10 years to be licensable under FERC. We don't have a precedent for that, I don't believe.

So the question becomes what happens in that interim time? And I guess basically who's going to be responsible for those dams? I mean, in many of our districts, they're very vital in terms of flood control and water resources, whether it's tourism industry or farming industry.

Mr. FOLEY. That stays with the government—the irrigation, the dams and what have you stay. It's the generation capabilities within the dam of electric power that we're talking about selling.

Mrs. LINCOLN. So that's what you're saying. You're only saying you're going to sell off the generating capacity, not the actual capital investment?

Mr. FOLEY. You're not selling the dam structure itself. You're selling the ability to generate electricity within the structure.

Mrs. LINCOLN. So then you've got the Federal Government from another entity regulating the dam, and then you've got one of the IOU's basically purchasing generating capacity. They can already do that, can't they?

Mr. FOLEY. That's happening currently.

Mrs. LINCOLN. They can do that now, correct?

Mr. FOLEY. Correct.

Mrs. LINCOLN. So basically, all of these PMA's are on schedule in terms of their repayment, correct? They're on schedule.

Mr. FOLEY. On schedule for repayment.

Mrs. LINCOLN. There's still a debt, without a doubt, but they're still on schedule with their payments.

Mr. FOLEY. Correct.

Mrs. LINCOLN. And basically, what your question was initially was government no longer needs to own these. If the payments are on schedule and if what you're going to do is create more of a quagmire in terms of regulation, I mean, what happens in these 10 years? What happens in 10 years? Are we going to have 10 years of unlicensed dams operating?

Mr. FOLEY. I don't think you create a quagmire. Again, I'm looking at the asset and the value of the power produced and the value of that power production to the American consumer and taxpayer.

Mrs. LINCOLN. But they've already got that capability now, in terms of selling that power to the IOU's.

Mr. FOLEY. They may have the power, but they're not necessarily exacting the income that they should. They're selling to preference customers—again, the municipals and the co-ops—who oftentimes, sometimes may sell at a retail rate to their consumers.

Consumers in your locality may be paying, in fact, retail rates.

Mrs. LINCOLN. In most of the instances in my district, and I have a tremendous amount of municipal utilities, it's the one reason in rural areas that we've been able to get industry in there, is because through those municipally owned utilities, we're able to offer a reasonable rate to industry to get them in there.

But back to my original question, which is what happens in those 10 years? I mean, do we have unlicensed dams operating? If, in fact, what you're only selling is the generating capacity and not the actual physical facility, then again, we're lost in terms of who's going to be licensing, whether there's a precedence for licensing, whether we're going to have 10 years of unlicensed dams and who's really going to be in charge there.

Mr. FOLEY. Again, from my perception, we maintain possession of the dams, the Federal Government, so that doesn't come into play. It is really the electrical generating capabilities within the dam that we're talking about.

Mrs. LINCOLN. So you don't assume, but you don't have an answer as to who's going to license those dams.

Mr. FOLEY. Correct.

Mrs. LINCOLN. That's a big question. We've got 10 years of unlicensed dams.

Mr. FOLEY. They're not licensed now. The dams are not licensed now, and they're not going to be transferred in the purchase price, so you don't create a new situation. You have an on-going situation—

Mrs. LINCOLN. So you're really not selling the facility. You're just selling the generating capacity.

Mr. FOLEY. Right, correct. You may, in fact, expand the opportunity for consumers to derive hydroelectric power that's more environmentally friendly for regions to utilize. And believe me, I represent rural co-ops. I have municipal electric facilities in my district, so I'm not looking to target members' districts to eliminate something.

In my case, in Lake Worth, Florida, we have a very old power plant that's generating and utilizing fossil fuel oil to generate most of its power. Now, they've done a grid system with FPL and, in fact, are purchasing a lot of their nuclear capability, which is cheaper. But at times, they have to go back to their old generating facility in order to generate power during summer months.

By expanding this pool of resources for consumers, you may, in fact, create additional opportunities to use these fine facilities, generating more efficient power for consumers throughout the Nation.

So there could be multiple benefits, not just for localities, but for distribution of power as the wheeling process takes place.

Mrs. LINCOLN. I yield back.

Mr. SCHAEFER. The gentlelady's time has expired. I would recognize the gentleman from Massachusetts, Mr. Markey.

Mr. MARKEY. Thank you, Mr. Chairman.

Is there a reason why you left out the electricity-generating capacity of the TVA? Why can't we include that, as well?

Mr. FOLEY. Well, the problem in the TVA's is that they are multidimensional, so we didn't consider them in the bill. They do a number of other things.

Mr. MARKEY. We're going to separate out the electricity dimension from all the other functions that any of these various administrations have—the flood control, the irrigation, all that. Why can't you tease it out in the TVA, as well?

Mr. FOLEY. Be happy to look at that. I have no problem.

Mr. MARKEY. Would you be sympathetic?

Mr. FOLEY. I'm sympathetic to anything to get the government out of the power-generating business.

Mr. MARKEY. I appreciate that. What I'm saying is intellectually, is there a difference, though, between teasing this out of the responsibilities of TVA, any more than teasing out the electrical generating function of the BPA or the other—

Mr. FOLEY. Probably not.

Mr. MARKEY. So you made a decision not to include—

Mr. FOLEY. No, I've only structured it on the scenario that has been proposed by President Clinton in order to get us out of the

PMA's. They didn't target TVA's, nor did I, but I'd be willing to. If you want to mark up the bill with me, we would be happy to.

Mr. MARKEY. I'm saying if we're going to do it, I would like the TVA to be in, as well, for their electricity functions. I don't know why we would exempt them. It seems to me if we're going to do it, we might as well do it once and for all.

Mr. FOLEY. I would love to walk down the path together.

Mr. MARKEY. Okay. Hand in hand into buckshot heading straight at us.

Mr. FOLEY. I'm always looking for cover.

Mr. MARKEY. It's like "Deliverance" here.

Mr. FOLEY. Amen.

Mr. MARKEY. And let me ask another question, just so I can understand it. In terms of the actual sale of—see, I don't want any subsidies anymore. You just have to look at the map and you can see that the Northeast and Midwest—and, by the way, I'll just add Florida—are the only parts of the country that aren't really covered by any of these power administrations. And it's clear that we've been subsidizing, with our tax dollars, the rebuilding of the rest of America, or the electrification of rural America since like 1935, which is okay.

We didn't mind subsidizing it, but not when they're advertising lower electricity rates in the Tennessee Valley area or out in Arizona to steal away our industries. You know, we let them steal away the textile industry with these lower electricity rates, but the high tech industry is something else again. We've got to end it at some point. That's one of their selling points, you know, that they have federally subsidized electricity, to swipe the stuff away from us.

So the even application of private sector principles, it seems to me, would benefit all parts of the country that are now subsidizing other areas' electricity rates.

My question would be that I don't want to wind up with the Federal Government getting stuck with the dam. I mean, I don't want us to get stuck with all the overhead and that we're going to subsidize these private—I don't want to subsidize electric utilities all across the country by having us stuck with the 60-year-old property and them getting the benefit of the cheap electricity that they can market.

I want them to shoulder the responsibilities of the permanent maintenance, operations, debt payment, as well as the benefits that come from generating cheap electricity.

And so, as you're talking here and saying, "No, we're not going to actually sell the facilities," see, there's a part of me that says, "I want to sell the facilities, too. I want to just get it off our hands." Then I don't have to track the cross-subsidies, the Federal Government's responsibilities, and continuing to have taxpayers shouldering the burdens for things that are indispensably related to the creation of electricity, even if they have other functions.

We have to have some way of properly assessing all of the other burdens that are part of generating this electricity onto the purchaser, as well.

Mr. FOLEY. There's no question. It's like, if I can use a retail comparison, owning a shop within a mall. I mean, you are contrib-

uting toward the cost of the entire mall through your payment of rent, a proportionate share of what you're using, what you're taking advantage of.

So there is a structure there that you can determine, you know, access, cost of the facility, repair of the facility intended to produce electricity, and a number of other things to offset the cost to the government to operate the dam, while still protecting a vital function of flood protection and irrigation that I'm not comfortable releasing to the private sector.

Mr. MARKEY. I guess if I could just finish up, my only concern is that the investor-owned utilities are looking for Filene's Basement sale prices here, and I don't blame them. That's their job. They're here as protectors of their shareholders and they want this bill to be constructed in the best way possible for Duke Power or for whomever gets to purchase this cheap power that's generated by the Federal Government.

All I'm saying to you is that while they want the rent money, who's going to be paying the mortgage on the property, okay, that's generating all this wonderful rent? And I want to make sure that there is an absolute dedication to ensuring that these investor-owned utilities don't walk off with the blond and the taxpayer gets left picking up the bills for the mortgage for the next 30 or 40 years, right?

Mr. FOLEY. I can see we're not going down that road hand in hand.

Mr. MARKEY. They see this as a dream come true for them, this bill, okay? So we have to be very careful. Thank you, Mr. Chairman.

Mr. FOLEY. I just want to clarify, I'm not here to advocate preferential special sale for investor-owned utilities. I think it's clear that we have to set a market rate and a value for this property, taking into every consideration and allowing the municipals and everyone else access to purchase this property and the opportunity to generate electricity.

So this is not to benefit or be a sweetheart deal for any power company.

Mr. SCHAEFER. The gentleman's time has expired. I'd recognize the gentleman from Georgia, Mr. Norwood.

Mr. NORWOOD. Thank you, Mr. Chairman.

Good morning, Mr. Foley.

Mr. FOLEY. Good morning.

Mr. NORWOOD. Let me suggest perhaps that as you and Mr. Markey go hand in hand, that you might skip. That'll make it a little harder for the buckshot to hit you both.

I'll be as quick as I can. I have a few questions.

What is the current time line for privatizing the PMA's? If this legislation is passed, how long do you think it'll take before the sales actually occur?

Mr. FOLEY. We would hope during the next 5 years. The last scheduled for sale under the bill would be the Bonneville at September 30, 2000. Southeast would be contemplated—I'm certain that's one that's of interest to you—before September 30, 1997.

Mr. NORWOOD. I was interested in that map. I noticed Florida was missing. I guess that makes this a little easier.

Why, if you don't mind, would you tell me why exactly you want to sell the PMA's?

Mr. FOLEY. Well, I look at it from a fundamental basis that the government is currently providing a resource to certain consumers, certain customers, that are buying power lower than most Americans are able to buy it for.

So what I want to do is level the playing field. If the assets are available and the potential for sale to the taxpayers is there, I want to look at every possible opportunity. PMA's happen to be on that radar screen.

Mr. NORWOOD. Is it more a philosophy that the government doesn't need to generate power, or do you just think this is a very attractive business deal for the United States Government?

Mr. FOLEY. I think it's a very attractive business deal for the United States Government. When there are so many other competitors out there in the marketplace to provide the power capabilities of this Nation, the United States Government probably should take its power hat off and allow someone else to do it.

Mr. NORWOOD. I think Mr. Markey is probably right about them winning the blond. We're going to basically give them away, and I think that it is very questionable in my mind whether your assumption is correct that this is a good deal for the United States Government.

I know our SEPA has an appropriation of about \$22.4 million a year, and somehow or another we seem to bring in almost \$160 million a year. And I guess if I just look at that PMA I think why in the world would we take one of the few things that this Federal Government ever does where we make a profit and try our best to give it away so that we can stay there and use taxpayers' money to do those other things that the dams do, other than generate electricity?

It appears to me that we're dealing with a very short-term deficit problem and a long-term problem of increasing our deficit by selling these programs.

Now, I tend to agree; the government doesn't need to be in areas where private enterprise should be. But we have a serious cash flow problem up here, and unless I can't add, when we're spending \$22 million and we're taking in \$160 million, it seems to me that is a positive step with our cash flow problem up here.

And I would say we ought to get to the point where we have surpluses, rather than deficits, before we start selling off things that, in effect, work pretty well for us.

Mr. FOLEY. Well, Mr. Norwood, I think one thing that will come out of our analysis of value will be, in fact, the capability of the investor-owners who may purchase these to pay income taxes on the generation of sale. That will reflect a number that may, in fact, bring greater relief than the current \$160 million of operating income.

Mr. NORWOOD. Reclaiming my time, I understand that we're all capable of taking numbers and making them do and say whatever we wish. If there is any area in the world that does that, it's the Federal Government.

What do you mean, "may"? We've got a bill to sell these things, and you're saying, "We may collect enough taxes to offset it"?

Mr. FOLEY. It would come out of the financial equation. I mean, you can't start any bill without having some flexibility to determine market values.

Southeastern Power Administration's average is \$2.35 per kilowatt hour. The market-rated average for that same area, Georgia, Alabama, North Carolina and South Carolina, is \$3.54. So clearly, there is some preference going on in the pricing of utilities.

Mr. NORWOOD. I don't think there's any question about that. So why don't we simply allow the Federal Government to very carefully and slowly raise their price a little bit, up toward market? And that will then help decrease our deficit even more.

Mr. FOLEY. Willing to consider. But again, I think the best approach is to get the Federal Government completely out of it and thereby allowing the private and free enterprise system to operate.

Mr. NORWOOD. Mr. Chairman, my observation is that none of that's considered, that the whole idea here is that we don't believe that Federal Government ought to be producing electricity, and regardless of the numbers or regardless of the stupidity that the people back home view this in, that we just need to sell it. We need to make a statement, not make a good business deal, and my folks are damn tired of us not making good business deals.

Mr. SCHAEFER. The gentleman from Georgia's remarks are certainly considered and the Chair might say that we just dealt with one of these issues yesterday in the sale of SPR, where we're selling \$33 oil for \$15 which, to me, is not a good business deal.

I'd recognize the gentleman from Idaho, Mr. Crapo.

Mr. CRAPO. Thank you, Mr. Chairman.

Good morning, Mr. Foley. I appreciate your being here. And let me state at the outset that philosophically, I tend to agree with the perspective from which you come, but I do have a few questions.

First of all, I understand that Mr. Klug has a bill which may differ in a number of ways, but the main difference I'm aware of is that his bill, if I understand it correctly, would provide for the sale of the facilities themselves. Is that correct, or do you know?

Mr. FOLEY. I don't think it speaks to the facilities. It doesn't. It's silent on that.

Mr. CRAPO. Then let me just ask my question this way. Why not sell the facilities themselves?

Mr. FOLEY. From our look at it, there are a number of other capabilities that the dams contain, such as irrigation and flood control, that are important to the areas, and we weren't interested in turning over those responsibilities to the private sector.

Mr. CRAPO. That leads into the main area of questioning that I want to pursue, and I want to focus on the Bonneville Power Administration.

I know you're not from that part of the country, so I don't know how familiar you may be with the issues we face there, but are you familiar with the salmon recovery issues that we are facing in the Pacific Northwest?

Mr. FOLEY. That was brought to my attention by Miss Chenoweth, and suggested that that's an area that we do have to look at in the Bonneville sale because there are regulatory issues that would impact a future utility or future acquirer of the asset. So that would have to be taken into consideration.

Mr. CRAPO. That's my point. One of the main issues, or I guess I would say battles or wars that we've been going through out in that part of the country over the salmon recovery is whether the dams that are along the Columbia River and the Snake actually are contributing to or are part of the cause of the decline of the salmon runs. There are many strong interests that argue that that is, in fact, the case.

As a result of that, some of the proposed solutions under the Endangered Species Act are requiring certain actions at the dams and certain uses of the water, which otherwise could be used for electrical generation.

And my question is with regard to the Bonneville situation specifically, do you have any specific information about whether there would be a person, entity or group that would be interested in buying a facility that is subject to that kind of question as to what the Endangered Species Act may require in terms of the function of the dams, or actually who would not know what would be required in terms of how those dams must be operated in light of the endangered species recovery efforts?

Mr. FOLEY. It would all, as I suggested to Miss Chenoweth, it would all have to come in through the analysis process. There may be indeterminate costs, just like buying any asset today. If you go out there, there may be groundwater pollution. There may be a number of things that you're unable to determine the full cost, and you walk away from the sale.

I don't think it hurts the government to walk down the road of finding what all of the problems are. It may in fact illuminate problems that we have to confront ourselves as taxpayers, and we may decide it's on our nickel and that this was a good self-examination of an asset to determine that we have some future responsibilities as taxpayers.

Mr. CRAPO. And does your legislation allow for that, or would your legislation require the sale, even if someone just offered a small sum in hopes that maybe they wouldn't get hit by an endangered species problem?

Mr. FOLEY. No, we are looking at doing an analysis, through an independent agency, of the values of these assets, that would determine then to proceed forward. I mean, there's nothing in the bill that forces necessarily the sale if we determine your yield or your rate of return is insignificant and not worth it.

Mr. CRAPO. How is the decision ultimately to be made? After the evaluation is made and I assume a few offers are on the table, how is the decision made whether the offers are in the range that should be accepted?

Mr. FOLEY. The Secretary of Energy would still be involved in the determination whether in fact the sale of the asset was in the best interest of the consumers. Checks and balances.

Mr. CRAPO. So, in effect, what the bill does is authorizes but does not mandate the sale of the facilities.

Mr. FOLEY. Correct.

Mr. CRAPO. Thank you very much.

Mr. BURR. Would the gentleman yield?

Mr. CRAPO. Yes, I'll yield.

Mr. BURR. Mr. Foley, is it possible under your legislation that some could be sold but some may not?

Mr. FOLEY. Oh, no question. No question. They may reserve—there may be, in the Bonneville area, where you have the WPPS bonds and what have you, you may do an analysis that simply, with the salmon recovery, with the nuclear power that they terminated, with the debts and the bond issues that are outstanding, the Secretary of Energy may say, "This is a complete non-sale opportunity. We just can't even move forward."

Mr. BURR. But the opportunity exists for really a cherry-picking of the PMA's by the private sector.

Mr. FOLEY. Based on what the contemplated values are. I don't know if I'd consider it a cherry-picking. Certainly we could be stuck with them, but we're stuck with them now, so that's not going to change the basis.

But I don't consider it cherry-picking necessarily. If you do find that there is good value, good value for the taxpayer in the sale, good future revenue stream for the taxpayer in the sale, and a market rate can be structured where the investor-owned utilities or whoever buys them—rurals or the municipals—are buying at an arms-length transaction, both sides win.

Mr. BURR. I yield back.

Mr. SCHAEFER. The Chair thanks the gentleman, and if there are no further questions of the gentleman from Florida.

Mr. MARKEY. If I may, just one more question, Mr. Chairman.

Mr. SCHAEFER. I yield to the gentleman.

Mr. MARKEY. I appreciate your indulgence.

Why can't we sell the whole facility if, in the Northeast and Midwest, there's not a federally owned dam, but yet we have our dams on our rivers and there's local regulation of irrigation and flood control that the facility is put under?

Why can't we do the same thing, just sell it to them? Have the whole thing sold and then just have the same kind of scheme that we have in the Northeast and Midwest for the rest of the country, in terms of irrigation and flood control? Why do we need the federal government for something that the rest of the country has been able to figure out how to do on a local level?

Mr. FOLEY. Well, I think you can go down that road if you so choose. There's nothing to prohibit you from pursuing that. We've looked at simply the electric generating capabilities.

Mr. MARKEY. But I mean the rest of the country has done that and it's a private sector function. And then the local governments say to them, "You know, you've got to make sure you protect these areas from flooding," or whatever. Why wouldn't we want to go that whole route?

Mr. FOLEY. Well, I'm just trying to, in my mind as I sit here, assess what value that would have to anybody in the private sector, owning a dam, if it's for flood control and water protection. I mean, what they're interested in, the people that I've talked to, is the generation of electricity, and that's the value.

Mr. MARKEY. But there are dams all over the Northeast and the Midwest that make money, and yet they have these other responsibilities because they've been allowed to block off a river, you know?

Mr. NORWOOD. Would the gentleman yield?

Mr. MARKEY. Yes, I'd be glad to.

Mr. NORWOOD. They just simply want the part that makes money.

Mr. MARKEY. I think you and I are agreeing on this.

Mr. NORWOOD. I can't believe it. Something's wrong.

Mr. MARKEY. No, no, no. When two people agree upon absolutely everything, you don't need one of those people. So we can like take turns coming to this hearing from now on. I think we're going to be making the same points.

Mr. BURR. Mr. Chairman, let the record show that we are disappointed on this side of the aisle that Mr. Markey did not have a song prepared for this hearing.

Mr. MARKEY. I just want whoever buys this to be treated the way the utilities or the private generators of electricity, hydroelectricity in the rest of the country, are treated. And that would be fine with me. Then that's a good deal for the Federal Government. Otherwise we're left behind with the least attractive parts of owning a dam. We don't get any of the benefits, only the responsibilities.

Mr. FOLEY. If your office would be so kind as to maybe send over some information as to those other sales that may have occurred or the creation of those dams, as well as electric facilities, so we can look at it.

I have no objection to looking at the broad range of the sale here, but I wanted to keep the bill narrow to deal with the power-generating capabilities, and I'm willing to go in any direction the committee would go.

Mr. MARKEY. The Northeastern part of the United States made the mistake of becoming a completely mature economy before Franklin Delano Roosevelt came along, so we didn't get subsidized. We didn't have subsidized generation of electricity by the Federal Government. But we did figure out to work out the irrigation and the flood control and whatever, without the help of the Federal Government.

If that's your point, that you've got Big Daddy there doing it, we can give you the model for how to do it to get them totally out of the business of performing any of these functions, which I think they should.

Mr. SCHAEFER. The gentleman's time has expired and I do want to recognize the fact that the gentleman from Florida does have other obligations and we appreciate very much your being in on this testimony today.

Mr. FOLEY. Thank you, Mr. Chairman, and members of the committee for your indulgence. I appreciate it.

Mr. SCHAEFER. Before the Chair calls up the second panel, I just want to remind the members of the subcommittee that the jurisdiction of this committee is limited to regulatory issues, not actually the sale. If the sale is made, then we have to deal with the regulatory issues.

And so if the members, in recognizing that with our next witnesses, would limit their questions in those areas, the Chair would appreciate it very much.

I now would like to call up Elizabeth Moler, the Chair of the Federal Energy Regulatory Commission, and Mr. Robert Nordhaus, General Counsel to the U.S. Department of Energy.

I do have a short opening statement and I'll recognize then the gentleman from New Jersey. And if any other member of the committee has an opening statement, we will also submit it for the record.

In the recent years, there have been an increasing number of proposals to privatize the Power Marketing Administrations.

There are now five PMA's, which market power from Federal dams to preference customers; that is, electric cooperatives and municipalities. As a general rule, this power is less expensive than power available from private utilities.

This year there have been already at least three legislative proposals to privatize some or all of the PMA's. Most interested parties agree that the Alaska Power Administration should be sold. There is, however, considerable disagreement about whether or not or how any of the remaining four PMA's should be privatized.

It is not the responsibility of this committee to decide whether the PMA's should be privatized. However, this committee is responsible for deciding the regulatory treatment of the privatized assets.

There are two Federal Power Act issues which are raised by the privatization proposal. First is the necessity for the licensing of the PMA hydroelectric facilities by the Federal Energy Regulatory Commission. Since these facilities currently belong to the Federal Government, they are not subject to licensing by the FERC, as are other privately owned facilities.

Second, we are concerned that the transmission access provisions of the Federal Power Act be applied to the sale of any transmission facilities. Electricity markets are becoming increasingly competitive, and the competition is dependent on the ability of sellers of power to be able to get to the buyers.

It is essential that any privatization proposal make the purchasers subject to the transmission access provisions of the Federal Power Act. I look forward to listening to the witnesses that we have today.

I yield to my good friend from New Jersey.

Mr. PALLONE. Thank you, Mr. Chairman.

I think that most of the points that I wanted to make in my opening statement were pretty much brought out in the questions and answers from Mr. Foley, but if I could just reiterate a couple of things.

I know that, as you said, the jurisdiction of this subcommittee doesn't include the question about whether or not we should be selling these assets, but obviously I think many of us feel that that's an important question that needs to be addressed, if not here, then someone else in the House.

Like Mr. Norwood, I think that to some extent this is being driven, on the one hand, obviously by budgetary considerations and, on the other hand, by just the general ideology that the Federal Government shouldn't own these agencies, but I don't necessarily agree with that.

I also would say that the big question for me is the same type of thing we dealt with when we dealt with the U.S. Enrichment

Corporation, and that is to make sure that the privatization of these assets is done in a way that, on balance, benefits the taxpayer in the long run. I'm concerned about whether or not that's ultimately going to be true.

And then last, the whole question of competitiveness; in other words, whether or not the basic change has taken place that Mr. Foley said over—you know, basically he's saying that over the last decades or whenever, when these were originally started by the Federal Government, that the atmosphere has changed completely and now we have a competitive atmosphere out there.

I'd like really to hear more testimony as to whether or not that, in fact, is true and whether there is truly a level playing field out there. So hopefully we'll hear some of this from the testimony today. Thank you.

Mr. SCHAEFER. The Chair thanks the gentleman and would recognize the gentlelady from Arkansas. She had an opening statement. Would you like to submit it?

Mrs. LINCOLN. I'll just enter it for the record.

Mr. SCHAEFER. Without objection, the gentlelady's statement will be entered as part of the record.

The gentleman from Massachusetts, did he have an opening statement?

Mr. MARKEY. No, thank you, Mr. Chairman.

Mr. SCHAEFER. The gentleman from North Carolina.

Mr. BURR. I'll just enter it in the record, Mr. Chairman.

Mr. SCHAEFER. And the Chair would ask that we have unanimous consent for the statements of the full committee chairman, Mr. Bliley, and also the statements of Mr. Moorhead, Mr. Klug, and Mr. Norwood to be entered into the record. So done.

[The opening statements of Hon. Thomas J. Bliley, Jr., Hon. Carlos J. Moorhead, Hon. Scott L. Klug, Hon. Richard Burr and Hon. Charlie Norwood follow:]

OPENING STATEMENT OF HON. THOMAS J. BLILEY, JR., CHAIRMAN, COMMITTEE ON COMMERCE

I'd like to commend the Chairman for holding this timely hearing on regulatory issues raised by the potential privatization of the power marketing administrations.

There are at least three legislative proposals pending to privatize the PMA's. It is apparent that these and other privatization proposals are being considered seriously by the Resources Committee. While it is not the role of this Committee to decide whether or not to privatize the PMA assets, we are concerned that any privatization legislation adequately address the issue of regulation of the privatized assets by the Federal Energy Regulatory Commission.

Two specific regulatory issues have been identified for this Committee: the issue of licensing any privatized hydroelectric facilities and the application of the transmission access provisions of the Federal Power Act to any privatized transmission lines. These are very important issues to Members of this Committee, especially since we hope to begin looking at the electricity industry as a whole and the role of competition in electricity markets during this Congress.

I look forward to hearing from the witnesses regarding their views on these issues and any other relevant regulatory issues they have identified.

OPENING STATEMENT OF HON. CARLOS J. MOORHEAD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman: I have very serious reservations about the proposals to sell off assets of the federal power marketing administrations (PMA's) that are before this Committee today.

Assets like the Hoover Dam generate low cost, clean hydropower for consumers in my district and throughout southern California. And, the California-Oregon Transmission Project gives ratepayers in California access to more economic sources of power.

These and other assets also provide a steady stream of revenues for the federal government—revenues that will continue for years into the future. I don't understand why the government would get rid of assets like Hoover Dam that will only become more valuable in future.

I have several concerns:

- Any sale of assets at auction will necessitate increases in electric costs for current customers. The Congressional Research Service estimates that if the PMA's were sold to private power companies, rates would rise by 1.2 to 1.3 billion dollars per year. The private power companies themselves acknowledge that rates would rise if they were allowed to buy the PMA assets.
- California's economy is just beginning to recover and it can ill afford rate increases of any size.
- Under these proposals, California might lose access to Hoover and other PMA resources altogether, because they could be purchased by a utility or other bidder from another state or region.
- Selling PMA assets to purchase other than the current customers will significantly shift the competitive balance in California and other states. I don't think it is fair to do that when those customers have been paying for the assets for 20 and 30 years and have been counting on continued access to the resources.

These are just some of my concerns. In my view, the federal power program has worked well for both the customers and the federal government and I see no reason to sell the PMA's.

However, I recognize that the budget resolution directs that revenues must be raised from the sale of federal assets, including the PMA's. I also recognize that there are many in Congress that want to privatize the PMA's to get the federal government out of the electricity business.

If a sale is to occur, I would want to insist that the PMA's be sold to the customers that are now repaying the federal investment in the PMA facilities. And, the price should be one that makes the government whole for its investment but doesn't make a greater profit for the US.

OPENING STATEMENT OF HON. SCOTT L. KLUG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

On the opening day of this Congress, I introduced H.R. 310 to privatize all of the U.S. Department of Energy's Power Marketing Administration. Privatizing the PMA's is an initiative that is long overdue and I am pleased, Mr. Chairman, that this Committee is exploring the various issues of what to do once the PMA's are privatized. The U.S. electric industry is becoming more competitive, i.e. the interconnection of local utilities, the growing significance of independent suppliers, and the use of wholesale power markets. The industry's competitive structure has the potential to reduce the cost of power and increase service reliability. Government subsidized power prevents the American public from enjoying the benefits of increased competition.

In anticipation of the deregulation of the power industry and competition on the rise, it would make sense to stop the federal government from marketing this power. The PMA's currently make up nearly $\frac{1}{3}$ of the Department of Energy payroll and markets 6 percent of the nation's total energy production. Given current fiscal realities, taxpayers should not be forced to pay for the federal government's competition with the private sector.

In addition to the Administration's proposal and the House Budget Resolution proposal, some private utilities have put forth their own ideas of how the PMA's should be privatized. I have always maintained that the best solution for the privatization of the PMA's is an open competitive bid.

PMA PRIVATIZATION PROPOSALS

I have some reservations with how current privatization proposals address the issue of the regulation of power rates. I've outlined my concerns according to the individual proposals.

The Administration's PMA Privatization Proposal

The Administration proposes to privatize Alaska, Southeastern, Southwestern and Western Area Power Administrations by transferring the rights to market the power to preference customers with net proceeds totalling \$3.3 billion. I have some concerns that the President's proposal is unnecessarily restrictive because bidders are limited to the current customers on a first right of refusal basis. In addition, PMA's currently have flexibility to raise rates. The Administration's proposal restricts rate increases. As a result, the government will not realize the full amount of deficit reduction benefits that could be generated from the sale.

By limiting the purchasers ability to make rate changes, the proposal also locks in subsidies that the PMA's have assumed for themselves as they determined the interest rates they would pay on amounts owed the Treasury. Generally, the PMA's are repaying debt at interest rates that are well below the government's cost of money at the time the loans were extended to each of the PMA's.

House Budget Resolution PMA Privatization Proposal

Like the Administration's proposal, the House Budget Resolution would privatize Alaska, Southeastern, Southwestern and Western Area Power Administrations for a total of \$3 billion from the sale. Alaska Power Administration would be sold based on the agreements made between the Department of Energy and the APA customers. The three other PMA's would become private corporations. Each of these corporations would own all of the current PMA facilities and the electric generating facilities such as the federal hydroelectric dams (currently owned by the U.S. Army Corps of Engineers and the Bureau of Reclamation). The PMA's would be sold to the PMA's preference customers for the current outstanding total debt of \$3 billion.

My concerns for the budget resolution proposal mirror my concerns for the Administration's proposal. I recognize that this proposal is offered in the interest of protecting increasing rates. By limiting the sale to the preference customers, however, and the price to the outstanding total debt to the Department of Treasury, taxpayers are not receiving the full return on their investment in the PMA's.

Proposals for Bonneville Power Administration

BPA is not included in neither the Administration or the House Budget Resolution PMA privatization proposals. There is legislation, however, to refinance BPA's debt owed to the Treasury. This legislation is designed to lock in BPA's current annual subsidy of \$450 million.

The Northwest region enjoys the cheapest electricity rate in the country—about 4.8 cents per kilowatt-hour for residential retail sales. Average rates, nationally, are about 8 cents per kilowatt-hour. BPA customers, such as the irrigators who use the power to pump water, pay only a fraction of the real value of the water. The remaining cost is paid by taxpayers who provide the \$450 million annual subsidy.

The legislation which has been introduced to refinance BPA's debt, like other PMA's, would arrange debt repayment terms that create a differential (subsidy) between the interest rate BPA pays on debt owed the Treasury and the Treasury's cost of money at the time the loans were extended to BPA. This subsidy under the legislation totals \$250 to \$350 million per year. Partially eliminating this subsidy could produce \$50 to \$100 million or more in revenue per year for deficit reduction. On BPA's \$2 billion plus annual revenue base, \$100 million represents about a 4 percent wholesale rate increase or a 2% retail rate increase. This amounts to about an additional \$2 per month paid by Northwest ratepayers on their monthly electricity bills.

In addition, the Administration and BPA is proposing to recast itself as a government corporation to derive efficiencies not now available under current regulations. Although this assertion is suspect, (but serves BPA's purpose in explaining partly why it is having problems) the proposal, if adopted with stipulated time limits and a solution for WPPS debt, could place BPA on a path toward privatization.

Private Sector PMA Privatization Proposals

Tucson Electric Power Company has placed their bid on WAPA assets in Arizona for \$550 million. The bid is for all WAPA assets in the state of Arizona which includes assets such as the power plants and transmission lines. Tucson Electric's proposal would ensure that any rate increases under Tucson Electric would not differ from rate increases under WAPA. The offer of \$250 million would come from the net present value of taxes to be paid on the WAPA assets after they are sold.

Another proposal from the private sector is from the Otter Tail Power Company. Otter Tail proposes to privatize the Billings Marketing Area of WAPA by conducting a pilot project. This project would be a 5 year contract for Otter Tail to manage, operate and maintain the Billings Marketing Area of the WAPA Pick-Sloan Project.

During this time, Otter Tail would takeover the PMA responsibilities for this area and implement strategies to transition rates to market levels. By raising the power rates to market levels, Otter Tail proposes to increase the value of the WAPA assets, thereby preparing it for sale. After the five year contract, the Billings Marketing Area would be up for sale, lease or renewal of contract without any increases. Under this contract, Otter Tail would receive a management fee of one mill/kwh. All revenues in excess of his cost would go directly to the Department of Treasury.

CONCLUSION

While I raised many concerns about the current proposals to privatize the PMA's, I am not endorsing one approach over the other. There are obviously many different possible implications to take into consideration such as rate shock and regulation concerns. I have been working closely with Congressman Foley on the issue of the PMA's. His legislation specifically addresses these concerns of what to do once the PMA's are privatized.

OPENING STATEMENT OF HON. RICHARD BURR, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Thank you Mr. Chairman. Today we are going to address the issue of the post-privatization regulation of the Power Marketing Administrations. This issue literally hits close to home for me because the residents of my district purchase their power from a combination of Rural Electrical Cooperatives, Municipal Utilities, as well as the investor owned utility, Duke Power. In different ways, each of them will be directly impacted by the decision to sell or not to sell the Power Marketing Administrations—in particular, the Southeastern Power Marketing Administration (SEPA)—and by the resulting regulatory system should they be sold. I have spent the past several months meeting with representatives from the groups affected, reading letters and phone messages from my constituents, and conducting detailed research of my own on this matter.

At the heart of this issue lies this question. Do the PMA's ultimately cost the government money, do they operate at a net gain to the government, or are they budget neutral? As a freshman Member of this House who takes our efforts to balance the budget quite seriously, it appeared to me that the decision to sell the PMA's should be based solely on whether they are an unnecessary expense to the government. The answer, unfortunately, turned out to be much more complex than simply examining the bottom line of a spreadsheet. After a long and arduous search through an alphabet soup of Federal Agencies, research organizations, and interest groups, I found that if you look at the big fiscal picture and assume that the PMA's will continue their debt repayment on schedule, you must come to the same conclusion that Energy Secretary Hazel O'Leary (who supports their sale) and I reached. The Power Marketing Administrations will not cause an ultimate loss to the Federal Treasury.

Having that answer, we must examine whether or not the one time budget gain will outweigh the services the government and private citizens receive—namely the ability to purchase power at a rate lower than the market value. My colleagues and I have been told that this hearing is not intended to address the decision to sell the PMA's, but to examine the possible regulatory scenarios after they are sold. I would argue that the resulting regulatory structure and its costs should be a key factor in this decision, and I am quite interested in hearing our panelists' suggestions. Particular issues that I would like for them to address include the following:

- 1) What will be the specific terms that would apply to repayment of the PMA's debt?
- 2) Should we require the purchasers to continue to sell power to the government at the below market rate, and if not, how much more will the taxpayers have to pay for the government's power?
- 3) What should the role of FERC be in regulating the PMA's should they be purchased by a private utility, and
- 4) How will we determine access to the transmission facilities purchased with each of the PMA's except SEPA which does not own any?

The answers to these questions should be found before we automatically assume that selling the PMA's is the right decision. I strongly believe that the information we receive through this hearing will help us come to a conclusion on the larger issue at hand.

Thank you Mr. Chairman. I yield back the balance of my time.

OPENING STATEMENT OF HON. CHARLIE NORWOOD, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF GEORGIA

Thank you for holding this hearing today on the privatization of the Power Marketing Administrations. I am sorry that the American Public Power Association can not join us today due to scheduling conflicts, I have their letter explaining there absence today that I would like to submit for the record. Thank you Mr. Chairman.

There seems to be a general belief that the sale of the remaining PMA's, the exception being the Alaska PMA, is a done deal, signed sealed delivered. Well, I am here to tell you it is not a done deal. Not only is it not a done deal, from what I have seen it is bad deal for the taxpayers, the ratepayers (not just those buying PMA power), and economic growth in rural areas. And worse these sales will falsely lower our deficit in the short term while increasing the deficit, that we in the Congress are fighting against so hard, in the long run. I would also like to explore the myth of the subsidy issue and the possible problems of regulation if the PMA's are sold either to Investor Owned Utilities or to the Preference Customers that they now serve.

Let me explore these problems individually.

First is the hit that the Taxpayer and Deficit Reduction will take if the PMA's are sold. Currently the PMA's are providing a steady revenue stream into the U.S. Treasury which more than cover the operating and maintenance costs of the Federally owned dams. As an example, Southeastern Power Marketing Administration, SEPA had an appropriation of \$22.4 million in FY95 while bringing in \$159.2 million. That is \$136.8 million over the appropriation going into the U.S. Treasury. The same is true of all the PMA's. The short sale price will be overrun in the long run by the loss of this revenue stream within ten to twenty years. When I was running for Congress in 1994, it was the first office I ever ran for. During that campaign people told me they were tired of the politicians in Washington doing things for the short term gain, while ignoring the long term costs. This, seems to me to be an example of that mentality that we freshman were sent to erase.

Also, beyond selling the only money producing part of the Federally owned dams, privatizing will allow the Federal government to keep the ever popular money losing side of the dams. Hydropower production is the only function of the multi purpose resource projects that not only pays its own way but makes money for the government. Navigation, irrigation, flood control, fish and wildlife recreation do not. So the taxpayer will have to pick up the bill for these functions that were previously financed by the power sales. So we lose money on both the front end and the back end. Mr. Chairman it appears that we are losing money all over, money we can't afford to lose while bringing down our deficit.

Next we come to the ratepayers. This power is mainly sold in rural areas where people can least afford the hit of there rates going up. I know there is some "so called" ratepayer protection language in Rep. Foley's bill, I have not seen the President's proposal so I can't know for sure what it says. However, everyone agrees that if these PMA's are sold the rates will go up. Just last week in testimony on the Senate side a representative of an IOU admitted that the rates would have to rise. At a time when we are trying to see to it that people will be allowed to keep more of there own money it seems wrong to do this.

Further, the PMA's are helping economic development in areas that desperately need it. Just recently, over in South Carolina a BMW plant was being moved in providing hundreds of value added jobs to the region, one of the reasons that BMW opened its plant there is the good power rates provided by SEPA. We cannot undersell the PMA's value to the communities they serve.

One last thing I want to go over is the subsidy issue. Use the word subsidy nowadays and people go running. Subsidies by themselves are not evil. However, those that favor the sale of the PMA's are throwing the word around the PMA's hoping it will leave the stigma on them. What they don't tell is they can't measure the subsidy, they can guess but they don't know. What we do know is that subsidies go to the private Investor Owned Utilities as well. In 1992, the U.S. Treasury lost over \$8 billion in revenue to subsidies for investor owned utilities. So again I am not saying this is bad. But if you want to talk about power subsidies let's look at the whole picture.

I look forward to these witnesses testimony, today.

Mr. SCHAEFER. The Chair now would like to recognize the Honorable Elizabeth Moler, Chair of the FERC.

STATEMENTS OF ELIZABETH A. MOLER, CHAIR, FEDERAL ENERGY REGULATORY COMMISSION; AND ROBERT R. NORDHAUS, GENERAL COUNSEL, DEPARTMENT OF ENERGY

Ms. MOLER. Good morning, Mr. Chairman and members of the subcommittee. It is indeed a pleasure to be here this morning to discuss issues related to transferring PMA facilities and functions to non-Federal entities.

There are two key points I want to emphasize today. First, the electric utility industry is rapidly undergoing a transition to a much more competitive industry, but we're not there yet. The key to making the wholesale generation marketplace more competitive is open access to transmission facilities.

Any legislation permitting the transfer of PMA facilities should ensure that the PMA transmission systems are subject to open access requirements being imposed on other transmission-owning utilities. We appreciate very much your recognition of this issue, Mr. Chairman, in your opening statement, and I will consider that hopefully done.

Second, PMA hydroelectric generating facilities are located at Federal Government dams. Therefore, these facilities are not currently under Commission license.

However, they could become subject to mandatory Commission licensing if they are transferred. Any legislation transferring PMA hydroelectric generating facilities from Federal operations and control should be clear as to whom, if anyone, is responsible for regulating them.

Before discussing these points in somewhat greater detail, let me give you a broad overview of our existing statutory authority over PMA's, as the subcommittee requested.

The Commission has only limited authority over the five PMA's. We regulate the rates of each PMA. However, our rate authority is very limited.

And the Commission has limited authority to order PMA's to provide transmission service. Under the 1992 Energy Policy Act, we can order the PMA's to provide transmission services on a case-by-case basis. The Commission has no licensing authority over the hydroelectric generating facilities from which the PMA's market power.

Now, what will happen if the PMA's are transferred? Depending upon who acquires the PMA assets, that entity could become subject to Commission regulation as a public utility under the Federal Power Act. If PMA facilities are acquired by an investor-owned utility that is subject to the Commission's jurisdiction, the Federal Power Act would require the Commission to regulate the rates, terms and conditions of transmission and sales involving the newly acquired PMA facilities.

The Commission would also regulate any merger, acquisition, or disposition of jurisdictional facilities by the jurisdictional utility, as well as its accounting practices and possibly even issuances of securities.

If the acquirer of PMA facilities is not subject to the Commission jurisdiction—for example, if it is a municipality or cooperative—the Federal Power Act would not give the Commission rate or corporate regulatory authority. We would, however, have limited au-

thority to order transmission services over the newly acquired transmission facilities.

The issue of future jurisdiction over PMA transmission facilities is particularly important, given the competitive changes in the electric utility industry. Under existing law, there are indeed gaps in our authority to require the various types of utilities to comply with the transmission access requirements we have recently proposed in our open access notice of proposed rulemaking.

While we can order PMA's to provide access on a case-by-case basis, we cannot act generically to require them to provide open access.

PMA facilities should not be used in the future to block competition. They should not be immune from having to offer open access transmission services. If PMA facilities are not sold or transferred to a public utility, I would recommend that the legislation specifically require that nondiscriminatory open access transmission services, under Commission approved tariffs, be provided by those who purchase PMA transmission facilities. This issue is not addressed in any of the pending legislation.

Now I want to move on to hydroelectric licensing issues. Any legislation should specifically address whether the facilities are or are not exempt from Part 1 of the Federal Power Act. You need to answer that question. Resolving the uncertainties about licensing should facilitate the sale of PMA facilities and enhance the taxpayers' return on the facilities, if that's what you want to do.

An exemption would likely result in the facilities being subject to regulation by a state regulatory authority. If we're not in charge, I'm sure the States would fill that gap. If this is done, you should therefore also address the appropriate role, if any, for a state regulatory authority.

Mr. Foley's bill, H.R. 1801, does address Commission licensing of PMA facilities. We will make several technical suggestions about refinements that we would believe would be useful to this legislation for the subcommittee's hearing record.

Indeed, we would be pleased to work with the committee and your staff to address all of these important issues. I would be happy to answer any questions you may have. Thank you.

[The prepared statement of Hon. Elizabeth A. Moler follows:]

PREPARED STATEMENT OF HON. ELIZABETH A. MOLER, CHAIR, FEDERAL ENERGY REGULATORY COMMISSION

Mr. Chairman and Members of the Subcommittee: It's a pleasure to be here this morning to discuss the Federal power marketing administrations (PMA's) and issues related to transferring the PMA's facilities and functions to non-Federal entities. My testimony will first focus on the Federal Energy Regulatory Commission's limited jurisdiction over the PMA's under existing law. It will then discuss the jurisdictional implications if the PMA's facilities and functions are transferred to non-Federal entities, and the importance of PMA transmission facilities in light of competitive changes in the electric utility industry.

There are two key points I would emphasize: First, the electric utility industry, which historically has been comprised of vertically integrated monopolies, is rapidly undergoing a transition to a much more competitive industry. We believe the market for new generation capacity—that is, those who build new powerplants to generate electricity—is already competitive. We are looking at whether existing generation markets can be made more competitive. We believe that a much more efficient wholesale market, where buyers and sellers of generation capacity can easily conduct transactions, will save consumers money and is in the public interest. We are trying to encourage that to happen.

Transmission facilities are now regulated and operated as traditional monopolies. We must change that; and we have proposed a rule that would do so. Competitive generation markets can be achieved only if monopoly controllers of the nation's transmission grid open their transmission systems, on a nondiscriminatory basis, to all wholesale users. Some of the PMA's own significant amounts of transmission facilities. Any legislation permitting the transfer of PMA facilities should ensure that the PMA transmission systems are subject to open transmission access requirements being imposed on other transmission owning utilities.

Second, PMA hydroelectric generating facilities are located at Federal government dams operated by the Corps of Engineers or the Bureau of Reclamation. These generation facilities are not under Commission license because they are Federal facilities. However, they could become subject to mandatory Commission licensing if they are transferred. Any legislation transferring these facilities from federal operations and control should be clear as to who, if anyone, is responsible for regulating them. If the Commission is responsible for their regulation, the legislation should specify which project works would come under the Commission's jurisdiction, and should clarify whether and when a licensing process should be undertaken. Congress should resolve the uncertainties associated with these licensing issues in order to facilitate the sale of the PMA facilities and to enhance their market value.

Existing Authority Over PMA's

There are five Federal power marketing administrations: the Alaska Power Administration (Alaska); Bonneville Power Administration (Bonneville); Southeastern Power Administration (Southeastern); Southwestern Power Administration (Southwestern); and Western Area Power Administration (WAPA). The PMA's market surplus power generated at dams operated by federal agencies, principally the Corps of Engineers and the Bureau of Reclamation. Certain of the PMA's also provide what we call "unbundled" transmission. In brief, that means they make transmission services available to third parties. In marketing power, the PMA's are required to give priority to "preference" customers; they are generally defined as non-investor owned utilities, such as cooperatives and municipalities.

The Federal Energy Regulatory Commission regulates the rates of each PMA. However, our rate authority is very limited. PMA's are not subject to the regulation (rate and otherwise) that applies to privately owned utilities. While the Commission must confirm and approve PMA power and transmission rates, we do not evaluate PMA rates under the traditional just, reasonable, and non-discriminatory standard applied to public utility rates under the Federal Power Act.

We have particular statutory authority over Bonneville's rates. Pursuant to the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), the Commission must confirm and approve, on an interim and final basis, Bonneville's rates. Under section 7(a)(2) of the Northwest Power Act, the Commission evaluates Bonneville's rates for sales within the Pacific Northwest region to ensure the rates: (a) are sufficient to repay the Federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting Bonneville's other costs; (b) are based on Bonneville's total system costs; and (c) insofar as transmission rates are concerned, equitably allocate the costs of the Federal transmission system between all users of the system, Federal and non-Federal.

Under section 7(k) of the Northwest Power Act, the Commission evaluates Bonneville's rates for sales outside the Pacific Northwest region to ensure the rates are established: (a) having regard to the recovery of the cost of generation and transmission of such energy; (b) so as to encourage the most widespread use of Bonneville power; (c) to provide the lowest possible rates consistent with sound business principles; and (d) in a manner which protects the interests of the United States in amortizing its investments in the projects within a reasonable period.

The Commission also confirms and approves rates of the other PMA's, on a final basis only, pursuant to delegation from the Secretary of Energy. Under the Delegation Order, the Commission evaluates the other PMA's rates to ensure that the rates are: (a) the lowest possible consistent with sound business principles; (b) sufficient to recover the costs of producing and transmitting power, including repayment of the Federal investment; and (c) consistent with the assumptions and projections used in developing the rates.

Significantly, the Commission can only approve, disapprove or remand a PMA's proposed rates. Unlike our regulation of public utility rates, the Commission cannot modify a PMA's proposed rates.

In addition to limited rate regulation of the PMA's voluntary power and transmission rates, the Commission also has limited authority to order them to provide transmission service. Each PMA, with the exception of Southeastern, owns or operates electric power transmission facilities that are used for the sale of electric en-

ergy at wholesale. As such, Alaska, Bonneville, Southwestern and WAPA are "transmitting utilities" as defined in section 3(23) of the Federal Power Act, as amended by the Energy Policy Act of 1992. This means that the Commission can order them to provide transmission services, upon application and pursuant to certain procedural requirements, under sections 211 and 212 of the Federal Power Act. There are special provisions (section 212(i) of the Federal Power Act) that apply only to Bonneville. To date, the Commission has not received any applications under section 211 asking the Commission to order any of these PMA's to provide transmission services. The Commission cannot order the PMA's to provide transmission services under any other provisions of the Federal Power Act nor do we regulate their rates under any other provision of the Federal Power Act.

The Commission has no licensing authority over the hydroelectric generating facilities from which the PMA's market power.

Transfer of PMA Facilities

The Secretary of Energy has recently proposed to study and prepare separate plans to transfer control of the facilities and functions of Southeastern, Southwestern and WAPA to non-federal entities. In addition, several bills that would authorize the sale of some or all PMA facilities have been introduced in the House of Representatives.

Mr. Klug's bill, H.R. 310, was introduced on January 4, 1995. It authorizes and directs the Secretary of Energy to sell the physical assets, and terminate the operations, of the PMA's.

Mr. Young's bill, H.R. 1122, was introduced on March 3, 1995 and reported by the Committee on Resources on July 13, 1995. It authorizes and directs the Secretary of Energy to sell the Alaska Power Administration's Snettisham Hydroelectric project to the State of Alaska, and the Eklutna Hydroelectric Project to the Municipality of Anchorage, and the Matanuska Electric Association.

Mr. Foley's bill, H.R. 1801, was introduced on June 8, 1995. It authorizes and directs the Secretary of Energy to sell all electric power generation and transmission facilities that are currently owned and operated by Federal departments and agencies under the supervision of, or (in) coordination with, the Federal Power Marketing Administrations. They may be sold only to a United States citizen, corporation or partnership.

The regulatory consequences of any legislation will, of course, depend upon the specifics of any adopted proposal. Depending upon who acquires the PMA assets, that entity could become subject to Commission regulation as a public utility under Part II of the Federal Power Act. In addition, there are implications for the Commission's hydroelectric licensing authority under Part I of the Federal Power Act. If the PMA's hydroelectric power facilities become non-Federal facilities that use surplus water at a government dam, they would be subject to mandatory licensing by the Commission, unless exempted, or unless a special licensing regime is established, by the legislation.

Transmission/Sales for Resale Issues

If the acquiror of PMA facilities is a public utility, *i.e.*, an investor-owned utility that owns or operates facilities used for transmission in interstate commerce or sales for resale in interstate commerce, it would be regulated by the Commission. The Commission would regulate the rates, terms and conditions of transmission in interstate commerce, and sales for resale of electric energy in interstate commerce, by such public utility. This would include transmission and sales involving the newly acquired PMA facilities. All rates, terms and conditions would have to be just, reasonable, and not unduly discriminatory or preferential under sections 205 and 206 of the Federal Power Act. The Commission also would regulate any merger, acquisition or disposition of jurisdictional facilities by the public utility, as well as its accounting practices and possibly issuances of securities.

If the acquiror of PMA facilities is not a public utility, for example if it is a municipality or cooperative, the Commission would not have the rate or corporate regulatory authority. We would, however, have limited authority under sections 211 and 212 of the Federal Power Act to order transmission services, on a case-by-case basis, over the newly acquired PMA transmission facilities.

The issue of future jurisdiction over PMA transmission facilities is particularly important given competitive changes in the electric utility industry and the Commission's recently proposed requirements for the majority of owners and controllers of interstate transmission. If the acquiror of PMA assets is not a public utility, it would not be subject to these requirements, discussed below.

Open Access Rulemaking Proposal

On March 29, 1995, the Commission issued a notice of proposed rulemaking that would require all public utilities that own or control interstate transmission facilities to provide nondiscriminatory open access transmission services (Open access NOPR). Pursuant to our authority to remedy undue discrimination under sections 205 and 206 of the Federal Power Act, we propose to require that all public utilities offer transmission services that are comparable to the services they provide themselves when they use their own transmission systems to make wholesale sales or purchases of electric energy.

We believe that open access is necessary to eliminate existing utility practices that are unduly discriminatory and to have competitive bulk power markets in which all wholesale sellers can reach all wholesale buyers. We concluded that ordering transmission service on a case-by-case basis under section 211 of the Federal Power Act, by itself, is not sufficient to remedy undue discrimination. This is because section 211 service is not a substitute for open access service, *i.e.*, service on request. Many competitive opportunities will be lost if customers have to go through the procedural requirements of a case-by-case request.

The proposed rulemaking recognizes that in order for bulk power markets to be fully competitive, at a minimum all transmission facilities, including those of the PMA's and other non-public utilities, should be available for wholesale transactions under tariffs of general applicability. However, under existing laws, the Commission does not have authority to order open access transmission by non-public utilities. While we can order these entities to provide access on a case-by-case basis under section 211, we cannot order them to provide open access.

Certain of the PMA's, notably Bonneville and WAPA, own significant transmission facilities. These facilities should not be used in the future to block competition and should not be immune from having to offer open access transmission services. Both Bonneville and WAPA have joined the Western Regional Transmission Association, a voluntary regional transmission group (RTG) comprised of public utilities and non-public utilities who have agreed to provide open access to other members of the group. We do not know how Bonneville and WAPA plan to implement their open access commitment. Moreover, there is no assurance that comparable transmission will be available if their transmission facilities are sold. Nor have they agreed to provide open access to non-RTG members.

If any sale or transfer of the PMA's transmission facilities is to a public utility, the facilities would, under current law, be subject to any open access requirement finally adopted by the Commission. In the event they are not sold or transferred to a public utility, I would recommend that the legislation specifically require that non-discriminatory open access transmission services be provided by the entities who purchase the transmission facilities under tariffs subject to the jurisdiction of the Commission.

Hydroelectric Licensing Issues

If Congress does not intend to make PMA hydroelectric generating facilities subject to the Commission's licensing jurisdiction, proposed legislation should specifically exempt the facilities from Part I of the Federal Power Act. Because such an exemption might result in the facilities being subject to regulation by a state regulatory authority, the Congress, if it decides to exempt the facilities from FERC's licensing authority, should also address the appropriate role, if any, for state regulatory authority.

If PMA hydroelectric generating facilities are made subject to the Commission's jurisdiction, the legislation should provide guidance as to what, if any, special status these facilities would have. Absent instructions to the contrary, the Federal Power Act would require us to commence licensing proceedings for such facilities. The Federal Power Act requires the Commission to give equal consideration to the developmental and environmental values of a project. Even assuming that the dams at which the generating facilities are located remain federal, and therefore beyond the Commission's jurisdiction, we would have jurisdiction over power generation facilities located at those dams. They would have to be licensed. A Commission license could, for example, require a reduction in generation in order to benefit water quality and other resource values. The reposition of appropriate environmental mitigation and enhancement measures typically affects the economic benefits of a licensed project. Moreover, the licensing of some of these facilities could take several years. Clearly Congress should address these important licensing issues in order to facilitate the transfer of the PMA facilities. As I said earlier, resolving the uncertainties about licensing should facilitate the sale of the PMA facilities and enhance the taxpayers' return on the facilities.

Mr. Foley's bill, H.R. 1801, does address hydroelectric licensing of PMA facilities by the Commission. We believe several technical refinements and clarifications need to be made to H.R. 1801 to adequately answer licensing issues, and we would be pleased to provide the Subcommittee with technical comments.

Summary

As Congress considers transferring the facilities and functions of the PMA's to non-Federal entities, I urge you to consider the importance of PMA transmission facilities in the context of the significant competitive changes occurring in the electric utility industry. Any legislation should ensure that the facilities are operated on an open access basis so that the new owners of those facilities cannot use transmission monopoly power to block competition. I also recommend that the legislation clearly indicate who has responsibility for regulating the hydroelectric generating facilities that are transferred. We would be pleased to work with the Committee and your staff to address these important issues.

I would be happy to answer any questions you may have.

Mr. SCHAEFER. The Chair thanks the witness and would just say to both you and Mr. Nordhaus that your full statements will be made part of the record. Mr. Nordhaus.

STATEMENT OF ROBERT R. NORDHAUS

Mr. NORDHAUS. Mr. Chairman, members of the subcommittee, I have submitted testimony on this matter. Let me sum up my testimony.

Mr. Chairman, let us apologize for the late arrival of our testimony. We got hung up in OMB clearance, and we apologize for that.

I think Chair Moler has gone over most of the ground I would have covered. As always, I agree with her analysis—let me just emphasize a couple of things.

One is on the licensing question, I think it's quite important that the application of the licensing requirements of Part 1 of the Federal Power Act be clarified in the case of a sale of PMA generating assets to a non-Federal purchaser. Our review indicates to us that this is an area of considerable confusion, or would be if the sale occurred. It needs to be clarified.

I believe that if the committee determines to apply the licensing requirements of the Federal Power Act to the operation of the generating equipment at these projects, that we need to look at how to get through licensing in the short time frames that are called for in the bills.

For instance, under the administration proposal, Southeastern Power Administration would be sold in fiscal year 1997; the other two that are proposed for sale, Southwestern and Western Area Power Administration, in fiscal year 1998. One of our concerns would be making sure that if licensing is required, that the owner or operator can get through the licensing process in time to be able to operate the project on this very ambitious schedule.

Second point I'd like to make relates to transmission access. We are, as our testimony points out, in agreement with the essential point that Chair Moler makes, and that is that if the purchaser is a utility that is not subject to the principal regulatory provisions of Part 2 of the Power Act—that is, if the purchaser is an electric power cooperative or a municipal utility—then we think it is important that the purchaser be subject to the full panoply of open access requirements to the same extent that an investor-owned utility purchaser would be.

Under the administration's legislative proposal, the Secretary would, in all likelihood, require open access as a condition of sale of the transmission system. However, the administration would have no problem with and would support a legislative requirement that the purchaser of the PMA transmission system be subject to open access requirements to the same extent as an investor-owned utility would.

One other thing I would mention is that we've not done detailed analysis of this in the time that's been available to us, I think the sales provision, if it provides for sale to investor-owned utilities, would implicate the Public Utility Holding Company Act, as well as the Federal Power Act. I think that a look at the application of the Holding Company Act is in order if proposals similar to those of Congressman Foley's are considered.

[The prepared statement of Robert R. Nordhaus follows:]

PREPARED STATEMENT OF ROBERT R. NORDHAUS, GENERAL COUNSEL, DEPARTMENT OF ENERGY

INTRODUCTION

Mr. Chairman, thank you for inviting me to testify before your Subcommittee today on issues relating to the regulatory treatment of purchasers of the federal power marketing administrations (PMA's) if PMA assets are sold. My testimony includes a brief description of the Southeastern, Southwestern, and Western Area Power Administrations, a summary of the Administration's proposed legislation to transfer these three PMA's out of federal ownership, management or control, and a discussion of key regulatory issues relating to the proposed sale.

PMA BACKGROUND

The PMA's are agencies within the Department of Energy that sell hydroelectric power generated at multipurpose water projects owned and operated by the federal government. In general, preference in the sale of PMA firm power is given to municipalities, rural electric cooperatives, irrigation districts and other publicly-owned entities as required by various Flood Control and Reclamation law statutes. In most cases, the PMA's market power to wholesale customers, primarily municipal and cooperative utilities. The wholesale customers blend this power with their other resources and, in turn, sell it to retail customers.

The Western Area Power Administration markets power from Corps of Engineers, Bureau of Reclamation and International Boundary Water Commission dams that are located in the Colorado, Missouri, Sacramento/San Joaquin and Rio Grande river basins. These dams have a maximum generating capacity of 10,576 megawatts. Western also owns and operates one of the largest transmission systems of any utility in the United States which is comprised of 16,727 miles of high-voltage transmission lines.

The Southwestern Power Administration markets power from Corps of Engineers dams in Arkansas, Oklahoma, Kansas, Louisiana, Missouri and East Texas. The maximum generating capacity of these dams is 2,158 megawatts. Southwestern also owns and operates 1,380 miles of high-voltage transmission lines. The Southeastern Power Administration (SEPA) markets power from Corp of Engineer dams located in 10 southeastern states that have a maximum capacity of 3,092 megawatts. SEPA owns no transmission facilities. Attached is a map showing PMA service areas.

ADMINISTRATION PMA TRANSFER PROPOSAL

On May 3, 1995, Secretary O'Leary forwarded to the Congress proposed legislation, cited as the "Federal Power Administration Transfer Act", which authorizes the secretary of Energy to study and prepare plans to sell or transfer these three PMA's out of Federal ownership, management, or control. A copy of the legislation is attached to my testimony. The Secretary has also forwarded separate legislation to Congress to authorize the sale of the Alaska Power Administration.

The Administration's legislative proposal gives a preferential right of purchase to the existing firm power customers of the Southeastern, Southwestern, and Western Area Power Administrations. The preliminary sales prices established for each PMA

in the Administration's budget request are based on an estimate of the net present value of the principal aid interest payments that the Treasury expects to receive from each PMA. We believe that privatization which includes preference and a sale price based on the existing debt repayment stream will make it possible to increase the efficiency and responsiveness of the PMA's to local concerns without resulting in any rate increase.

The Administration opposes legislation that has been introduced in the House of Representatives (H.R. 1801 and H.R. 1993) which provide for the auction of PMA assets to the highest bidder because enactment of these bills could result in dramatic rate increases for consumers of PMA electricity.

The Administration seeks to accomplish three objectives by transferring the PMA's out of federal ownership. First, non-federal entities can operate and provide investment capital for these systems in a more cost-efficient manner than the Federal government. Burdensome Federal requirements and regulations such as procurement and personnel rules are a major impediment to the efficient operation of the PMA's. There is also a serious concern over the lack of Federal funding to invest in upgrading and rehabilitating the generation facilities. Allowing capital investments in system upgrades and repairs, free from the existing fiscal constraints of the Federal appropriations process, could solve this problem. These changes will assure the efficient and effective utilization of these valuable resources.

Second, privatization will localize control and make these PMA's more responsive to the needs of their customers and other local interests. This Administration is committed to reducing the size of government and allowing local decisions to be made by the people most affected. Also, there is no longer a strong need for the Federal government to operate these systems. The goal of bringing power and economic development to these regions has been accomplished.

Third, privatizing the PMA's will accelerate repayment of the investment that the Federal government has made in these assets. The financial benefit of privatization is that it will convert long-term PMA debt, currently repaid to the Federal Treasury over 50 years, into a one-time payment that will reduce the deficit in 1997 and 1998. The Administration has asked for a legislative waiver of the Budget Enforcement Acts' prohibition against "scoring" asset sales so that the proceeds from the sale of the PMA's will "score" as budget savings.

The Administration proposes to sell the Southeastern Power Administration by the end of FY 1997, and the Southwestern and Western Area Power Administrations by the end of FY 1998. The revenues from these sales, as contained in the President's Budget, are based on an estimate of the net present value of the principal and interest payments that the Treasury would currently receive. The following table summarizes the preliminary estimate of sale proceeds and revenue-losses which would result from this proposal for the period through FY 2000.

PMA Privatization

(all current \$ in millions)

PMA/Date to Privatize	Estimated Sale Price	Revenues Lost thru FY 2000	Net Revenues to treasury
APA/end of FY 1996	85	-27	58
SEPA/end of FY 1997	909	-431	478
SWPA/end of FY 1998	612	-136	476
WAPA/end of FY 1998	2,863	-194	2,669
Total	4,469	-788	3,681

In any privatization proposal, the Administration is committed to giving *preference to the existing firm power customers* of the PMA's. The Administration also considers the employees and contractors of these PMA's as a valuable asset and will work with the purchasers to assure a stable workforce and smooth transition from Federal control.

There are many details that must be examined and addressed with any privatization proposal. The PMA's are comprised of numerous systems and subsystems in particular river basins. In many cases, the most practical way to privatize may be to sell each river basin power system to the customers that presently receive firm power from that system rather than selling a PMA as a whole.

The sale or other transfer of the PMA assets to non-Federal entities can have important regulatory consequences depending on how the sales legislation is drafted. Several of the key issues are discussed below. Responsibility for applying these regulatory requirements, however, rests with the Federal Energy Regulatory commission (FERC).

Hydroelectric Licensing

The generators and other equipment that produce power delivered to the PMA's (other than APA) are owned by the Corps of Engineers, the Bureau of Reclamation, and the International Boundary Water Commission and are not subject to the licensing requirements of Part I of the Federal Power Act (FPA). Non-federal facilities, on the other hand, which generate hydroelectric power must generally be licensed by the Federal Energy Regulatory Commission under Part I. Section 23(b) of the Federal Power Act requires the licensing of hydroelectric facilities and would appear, by its terms, to apply to "powerhouses" and related facilities held by non-Federal entities and to require that a non-Federal transferee be licensed to own or operate these facilities. However, case law suggests that plants currently owned by Federal agencies might not need to be licensed under the Federal Power Act following a sale to non-federal entities. This case law maintains that FERC jurisdiction is withdrawn where the hydroelectric project had been authorized for federal construction or where Congress otherwise unambiguously indicated that the Commission's jurisdiction over the project is withdrawn. See *Uncompahgre Valley Water Users Association v. F.E.R.C.*, 785 F.2d 269 (10th Cir. 1986), cert. denied, 479 U.S. 829 (1986); *City of Gillette, Wyoming*, 25 F.E.R.C. ¶61,366 (1983). If the courts hold that, once withdrawn, FERC jurisdiction is not restored by a subsequent transfer to a non-Federal entity, the purchasers of the PMA powerhouses would not require FERC licenses.

Because of the legal uncertainty as to the application of licensing requirements to the transfer of generating equipment, if Congress decides to authorize the sale of generating equipment, then the legislation should spell out the extent to which the licensing requirements of Part I applies. One factor to consider is that the time required to complete the normal FERC licensing process probably will not permit sale of the PMA's on the schedules contained in the legislation.

Ratemaking—Wholesale Sales

PMA rates are currently subject to rate confirmation under the Flood Control Act of 1944 and Delegation Order No. 0204-108 by FERC, but are not subject to regulation under Part II of the Federal Power Act. If the Congress adopts the Administration's proposal to provide a preferential right of purchase to existing firm power customers, then Commission ratemaking jurisdiction under Part II of the FPA is less likely to be implicated than if proposals currently under consideration in the House to sell the PMA's to the highest bidder are adopted. Nearly all of the current firm customers are municipal utilities or cooperatives, which are not covered by sections 205 and 206 of the FPA. The sale of any part of the assets to investor-owned utilities that are "public utilities" under Part II, however, would implicate sections 205 and 206, which among other things require that the rates of interstate wholesale sales of electricity be just and reasonable. In particular, power sales by PMA purchasers that are investor-owned utilities to preference customers under current long-term contracts would be wholesale sales. If these sales are deemed to be in interstate commerce (as all would be outside of an area of Texas), they would be subject to review and modification under sections 205 and 206.

One issue of particular concern in connection with the auction sale of PMA facilities to investor-owned utilities regulated by FERC is the extent to which the purchase price of the facilities can be included in ratebase. As a general rule, a purchasing utility may include in its ratebase the book cost (depreciated original cost) of a purchased asset in the hand of the selling utility, but not any market premium in excess of the depreciated original cost. *Montana Power Co. v. FERC*, 599 F.2d 295 (9th Cir. 1979). "Ratepayers should not be required to pay twice for the same property, first, through depreciation charges and second, through sale of Plant components at costs higher than net depreciated book value." *Cities Service Gas Company*, 2 F.E.R.C. ¶63,033, 65,220 (1978). This rule, if it were determined to be applicable in this case, could impair the ability of a purchaser to recover any purchase costs in excess of book cost, and would likely defeat the auction proponents' objective of maximizing the bid price and the revenue generated by an auction sale.

Ratemaking—Transmission Services

Regulatory treatment of transmission services on PMA facilities under the Federal Power Act would not be significantly affected if such assets are sold to existing preference customers. The purchasers of the PMA assets would be subject to FERC jurisdiction under sections 211 and 212 in terms of transmission access orders and the transmission rates charged pursuant to those orders, just as are the PMA's, but, to the extent they are municipal utilities or electric cooperatives, would not be subject to sections 205 and 206. If the transmission access rules proposed by the Commission under sections 205 and 206 are implemented, investor-owned utilities that acquire PMA assets would be subject to those rules as well as sections 211 and 212.

In order to ensure that all potential purchasers of the PMA assets are subject to FERC's proposed open access rules, assuming such rules are implemented, the Department expects to condition the sale of the PMA transmission assets on commitments to provide open access. The Department would also support a statutory provision which provided the Commission with jurisdiction over the PMA transmission facilities purchased by municipalities and cooperatives, though we believe the policy could be implemented without legislation.

Public Utility Holding Company Act

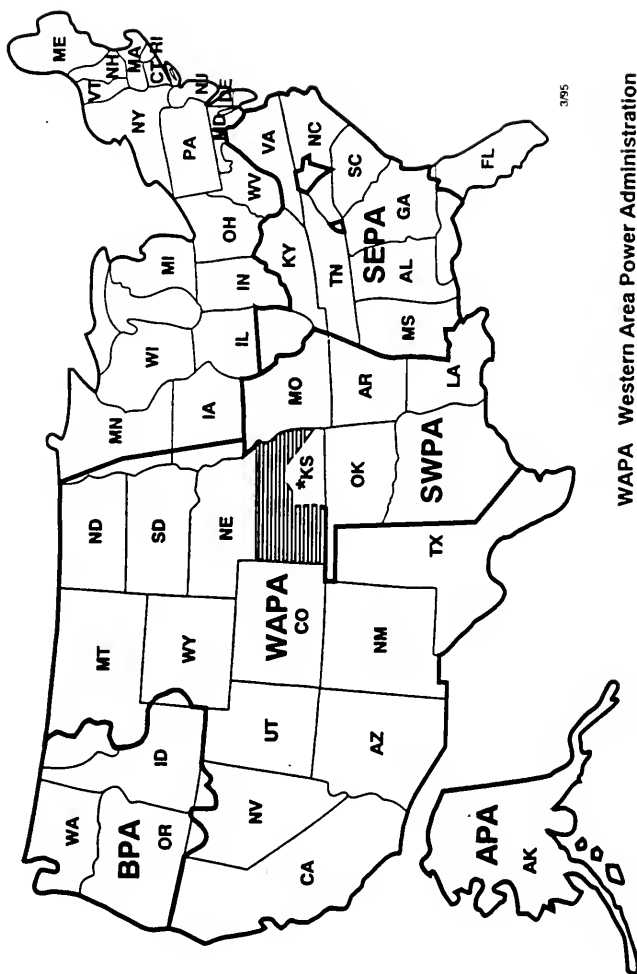
As a final matter, the sale of PMA assets could raise issues under the Public Utility Holding Company Act (PUHCA). We have not reviewed any of these issues in detail, but believe that such review needs to occur prior to enacting a general auction sales provision.

CONCLUSION

Privatizing the PMA's will be a complex transaction that will require considerable study and very close consultations with Congress, purchasers, customers, affected communities, and others. The Administration's legislative proposal authorizes studies of the privatization of these three PMA's. Based on the studies' results, the legislation directs the Secretary of Energy to prepare separate plans for transferring ownership of each PMA, and submit each plan to the President for approval. Following the President's approval, the Secretary would submit the plan to the Congress, and it would take effect 60 days after its submission. I look forward to working with the Congress toward enactment of this legislation.

Mr. Chairman, this concludes my remarks. If you or any members of the Committee have any questions, I would be happy to answer them.

POWER MARKETING ADMINISTRATIONS



WAPA Western Area Power Administration
 APA Alaska Power Administration
 BPA Bonneville Power Administration
 SEPA Southeastern Power Administration
 SWPA Southwestern Power Administration

* Note: both Western and Southwestern market power in Kansas.



The Secretary of Energy

Washington, DC 20585

May 3, 1995

The Honorable Newt Gingrich
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

Enclosed is proposed legislation cited as the "Federal Power Administration Transfer Act." This legislation would authorize the Secretary of Energy to study and prepare plans to sell or transfer the Southeastern Power Administration, Southwestern Power Administration and Western Area Power Administration out of Federal ownership, management or control.

Based on the results of the studies, the Secretary would prepare separate plans to transfer control of Southeastern Power Administration by the end of fiscal year 1997, and Southwestern and Western Area Power Administrations by fiscal year 1998. Upon completion of a plan, the Secretary would submit the plan to the President for approval. Following the President's approval, the Secretary would submit the plan to the Congress and it would take effect in 60 days.

The Power Administrations have done an outstanding job of serving the needs of their customers and the Nation as a whole. In recent years, however, the electric utility industry has changed significantly. It is apparent the functions of these three Power Administrations can be performed by non-Federal entities. Non-Federal entities would be able to respond more efficiently to the needs and concerns of the local communities. Often, Federal procurement, personnel, budgeting and other constraints make Federal operation of these systems more costly than if the customers and local communities operated them in the manner of the best utilities.

The Administration is committed to giving a preferential right of purchase to the existing firm power customers and to working with all interested parties and Congress to ensure thorough consideration of the issues surrounding the transfer. The Administration believes that a privatization plan that includes preference and a sale price based on the

existing revenue stream would make it possible to increase the efficiency and responsiveness of the Power Administrations to local concerns without resulting in any rate increase. The sale or transfer of these Power Administrations also would result in a fair and reasonable return to the Treasury. The sale price would be based on the discounted net present value of the principal and interest payments that the Treasury would receive over time.

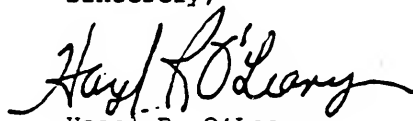
The Balanced Budget and Emergency Deficit Control Act of 1985 requires that all revenue and direct spending legislation meet a pay-as-you-go requirement through fiscal year 1998. That is, such a bill should not result in an increase in the deficit; and if it does, it would trigger a sequester if not fully offset. The "Federal Power Administration Transfer Act" would result in sale proceeds of approximately \$4.4 billion in fiscal years 1997 and 1998. A provision of the Balanced Budget Act generally prohibits counting the proceeds of asset sales as offsets to spending. However, the enclosed legislation includes a provision (section 5) to allow the proceeds to be counted as offsets to spending. This provision is patterned after the waivers of emergency spending provided by the Balanced Budget Act and is being proposed for several asset sales being recommended by the Administration for fiscal year 1996.

We look forward to working with the Congress toward enactment of this legislation. .

The Office of Management and Budget advises that enactment of this legislation would be in accord with the program of the President.

If you have further questions, please contact me, or have a member of your staff contact Mr. Douglas Smith, Deputy General Counsel, at (202) 586-3410.

Sincerely,



Hazel R. O'Leary

A BILL

To authorize the Department of Energy to transfer the Southeastern Power Administration, the Southwestern Power Administration, and the Western Area Power Administration to non-Federal entities, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Power Administration Transfer Act".

STUDIES

SEC. 2. (a) Notwithstanding section 208 of the Urgent Supplemental Appropriations Act, 1986 (Pub. L. No. 99-349), the Secretary of Energy (referred to in this Act as the "Secretary") shall conduct such studies as may be necessary to prepare plans for transferring out of Federal ownership, management, or control the facilities and functions of the Southeastern Power Administration, the Southwestern Power Administration, and the Western Area Power Administration.

(b) In making these studies, the Secretary at a minimum shall consider--

(1) the valuation of the assets and liabilities of those Power Administrations, including the value of the power from Federal generating plants and of the transmission systems;

(2) strategies for sale or transfer;

(3) terms and conditions of sale or transfer, including terms and conditions relating to Federal, State, and local environmental laws and requirements and obligations; claims of Indian tribes; treaty obligations; and contractual obligations; and

(4) terms and conditions that may be necessary to mitigate any economic impacts on the customers in the regions in which the Power Administrations operate and to mitigate any impacts on employees.

(c) Other executive agencies that may be affected by the sale or transfer shall assist the Secretary in carrying out the studies.

TRANSFER PLANS

SEC. 3. (a) Based on the results of these studies, the Secretary shall prepare a separate plan for the transfer to non-Federal ownership, management, or control of each of those Power Administrations. The plan covering the Southeastern Power Administration shall require completion of the transfer by September 30, 1997. The plans covering the Southwestern and Western Area Power Administrations shall require completion of the transfer by September 30, 1998.

(b) Each plan shall provide for--

(1) a minimum price to be received by the United States at the time of transfer which shall not be less

than the net present value of the principal,
 interest, and capitalized deficit payments the Secretary,
 in consultation with the Secretary of the Treasury,
 estimates the Treasury would be entitled to receive during
 the remaining period for repayment of those obligations;

(2) a preferential right of purchase to the existing
 firm power customers (or an entity acting on behalf of
 such customers) at a price that is not less than the
 minimum price;

(3) an employee and asset transition plan to
 minimize impact on employees and to assure an orderly
 transfer of functions; and

(4) the transfer of liabilities attributable to an
 asset that is transferred, except as provided by the
 Director of the Office of Management and Budget.

(c) Each plan may provide for--

(1) the transfer of individual projects, individual
 river basin power systems, or the entire Power
 Administration;

(2) the sale of the power generating equipment or
 other options that will assure that the transferee can
 perform generator maintenance and upgrading without the
 need for Federal funding; and

(3) terms and conditions the Secretary determines are
 necessary or appropriate to protect the financial and

other interests of the United States or to assure safe and efficient operation of transferred facilities, or which are otherwise in the public interest.

(d) In preparing the plans, the Secretary shall consult with Federal, State, regional, local, and tribal officials, and with customers. The Secretary also shall provide the opportunity for public comment on the plan.

(e) Following completion of a plan, the Secretary shall submit the plan to the President. Following approval of the plan by the President, with such modifications as the President determines are necessary or appropriate, the Secretary shall submit the plan to the Congress.

EFFECTIVENESS OF TRANSFER PLAN

SEC. 4. (a) A plan submitted to Congress under section 3(e) takes effect 60 days after its submission to the Congress.

PROCEEDS

SEC. 5. Proceeds from a sale or transfer under this Act shall be credited to miscellaneous receipts of the Treasury. If the President so designates, the net proceeds shall be included in the budget baseline required by the Balanced Budget and Emergency Deficit Control Act of 1985 and shall be counted for the purposes of section 252 of that Act as an offset to direct spending, notwithstanding section 257(e) of that Act.

Mr. SCHAEFER. The Chair thanks the gentleman for his testimony and I'm appreciative of the fact that you indicated that your testimony did arrive a little bit late, specifically at 8:18 last night. I have to remind the committee and DOE that written testimony is very valuable to us when it comes to trying to figure out questions, and I would hope that you would take this back to the people at DOE to get this testimony in here a little more rapidly so the chairman doesn't have to invoke the rules of the committee.

I'd ask, Mr. Nordhaus if indeed we go through with this sale, and I'm interested in the safety aspect, what is the physical condition of the dams that they're talking about being sold? Are there safety risks that we have to look at that would be unlicensable by the FERC?

Mr. NORDHAUS. Under the administration proposal, and I think under most of the other proposals, the dams themselves would not be sold. They would remain under Federal ownership and control and the current responsibilities for safety that are vested in the Army Corps of Engineers and the Bureau of Reclamation would remain where they are.

I don't believe that the dam safety regulation of the Federal Energy Regulation Commission would necessarily be implicated by the types of sales proposals that we're talking about here.

Mr. SCHAEFER. Well, there are some dams that are being proposed to be sold, and I, and I'm sure other members of the committee, don't want these sold and then have a safety risk.

Mr. NORDHAUS. Yes. Well, there are some proposals to sell whole systems. For instance, there's a proposal to sell the whole Central Valley project in California. If the dams passed out of Federal ownership also and the whole operation were licensed, then it would fall within the dam safety regime of the Federal Energy Regulatory Commission. We believe that would be the appropriate result.

Mr. SCHAEFER. Would the gentlelady care to comment?

Ms. MOLER. We run a major dam safety program, where the facilities are owned—the dam itself, if you will—are owned by the licensee. It is a well respected program. We would be entirely comfortable continuing to do that. This is one of the kinds of issues that would need to be clarified.

If the dam is sold, clearly we should have authority to ensure that it is safe and we inspect them regularly, we require consultants to inspect them, and so forth. We have a rigorous program.

Mr. SCHAEFER. So even if it is privatized, an individual corporation or private party owns the dam, you still then would retain the authority of inspection.

Ms. MOLER. Absolutely.

Mr. SCHAEFER. That's good. When FERC licenses hydroelectric facilities, it's generally for a term of 25 years, as I understand it.

Ms. MOLER. It can be 25 years. It can be as long as 50, legally.

Mr. SCHAEFER. Would you support legislation that would privatize dams that would not have to be licensed for 25 years?

Ms. MOLER. I'm not sure I understand the question, sir.

Mr. SCHAEFER. Well, if the legislation itself licensed the dams for 25 years.

Ms. MOLER. I think if you want to transfer these and deal with the licensing issue, we have suggested to the Resources Committee

that there be an, if you will, an almost automatic grant of an initial license. And there's a bunch of technical things that we would have to go through, but you really need to give whomever acquires it, abracadabra, by operation of law, an automatic grant of a license.

Now, whether you choose 10 years, as we have suggested, whether you choose 25 years, or whether you choose 50 years, you need to do that as part of the transfer.

And we have suggested that automatic grant by operation of the statute require the dam to continue to be operated in the way it's now operated, so you wouldn't disrupt any of the on-going activities.

Then, after some period of time, we would then suggest respectfully that they would go through a regular relicensing kind of operation where we would have input from all the agencies in town and it's an expensive and time-consuming process, but that we then look again at the operation of the dam. And we would be happy to provide the technical aspects to you that we have suggested to the Resources Committee.

Mr. SCHAEFER. The Chair thanks the lady. I recognize the gentleman from New Jersey, Mr. Pallone.

Mr. PALLONE. Thank you, Mr. Chairman.

Mr. Nordhaus, in your written testimony you say that the administration opposes Mr. Foley's legislation because it provides for an auction of the PMA assets and because enactment would result in dramatic rate increases.

Well, he obviously doesn't feel that way. Would you just comment on that? Maybe flesh that out a little more, why you think that's so true.

Mr. NORDHAUS. Obviously, as I believe Mr. Foley pointed out, the extent of the rate impact depends on how the bill is drafted. A couple of the principal bills now being considered in the House would permit rate increases to end users of 10 percent per year, which would, in effect, double the consumers' rates in 10 years.

And translating this to rate increases at the wholesale level, they could be very significant at the wholesale level, since most of the utilities that purchase power from the PMA's get power from other sources. For instance, if a wholesale purchaser purchased 20 percent of its power from a PMA and 80 percent from other sources, a 10 percent rate increase to the end user in that case could translate to a 50 percent or more wholesale rate increase.

These are rate increases that I think would be very difficult for the purchasing utilities to deal with in the normal course of their business. I think that, both from the point of view of the utilities and the consumers, permitting rate increases of this scale at this pace would be both disruptive and very difficult for some consumers to deal with.

Mr. PALLONE. Okay. I would going to ask the—I guess we're calling you Chair Moler now, right?

Ms. MOLER. That's what the President called me when he gave me my job, so that's what I am, sir.

Mr. PALLONE. Why were the PMA's originally treated differently from other utilities covered by the Federal Power Act? In other words, I'm wondering if any of the original reasons still have valid-

ity or is it simply that things have changed and there's no reason for the different treatment anymore.

Ms. MOLER. Frankly, I'm not familiar with why that was done the way it was. I mean, you were investing Federal dollars and they were Federal assets, and the principal concern, as I understand it at the time, was making sure that the debt was repaid, and they wanted to provide power. I don't think there was really a focus at the time on the rate aspects, as much.

Mr. PALLONE. But it's not valid anymore, to treat them differently?

Ms. MOLER. I don't really have an opinion on that, sir.

Mr. PALLONE. Okay. Well, I guess I'm trying to figure out really if there's a problem already, regardless of whether the PMA's are sold. In other words, does the special status of the PMA's, under the Federal Power Act, for the hydrolicensing, rate review, transmission, does that compromise FERC's ability to pursue national policy or good national policy?

Ms. MOLER. There are holes in what we have jurisdiction over. Some of the PMA's right now are talking about becoming open access transporters, for example. Bonneville, I talked to the Administrator of the Bonneville Power Administration last week, they're proposing—they have made a commitment to propose and open access tariff.

But we really don't have a way to force that to happen right now, and some of them, as you are well aware, are major transporters of energy. They own major transmission facilities, particularly in the West.

So they are not open access right now, and we are concerned about that.

Mr. NORDHAUS. Could I just reinforce a couple of things that Chair Moler said? The question of the transmission access to the PMA's transmission system under their current management regime is one that the Department is looking at. It's complicated by market and other concerns the PMA's have, but I would like to assure the committee that the Department is taking administrative steps to move in the direction of much greater open access, and we're going to try to do it as soon as possible.

That may not be a substitute for regulatory authority of the type that Chair Moler suggests, but I did want to make sure that the committee was aware of the Department's efforts in this regard.

Mr. PALLONE. Okay, thank you. Thank you, Mr. Chairman.

Mr. SCHAEFER. I thank the gentleman and we'll come back to him if he has any other questions. I recognize the gentleman from North Carolina, Mr. Burr.

Mr. BURR. Thank you, Mr. Chairman.

Mr. Nordhaus, I received a letter from Alice Rivlin, and in that letter she confirmed to me that a portion of the annual appropriation that goes to PMA's is designated to go toward the purchase of power.

I guess my question would be what percentage of the government's power is currently purchased from PMA's and after they're sold, do you have any estimates on what the increased cost would be to the Federal Government?

Mr. NORDHAUS. The question is what percent of the PMA's power sales are sales to the Federal Government as an end user?

Mr. BURR. Or what percentage of the government's power that's purchased.

Mr. NORDHAUS. I don't have that number at my fingertips. I may be able to get it to you in the course of the hearing or shortly thereafter.

Just looking at DOE, I believe that probably around 20 or 30 percent of DOE's power purchases are from the Power Marketing Administrations. Overall, I'll have to get back to you. We may be able to give you that number during the course of the hearing.

[The following information was received for the record:]

PERCENT OF FEDERAL GOVERNMENT ELECTRICITY PURCHASED FROM PMA'S

According to the *Annual Report to Congress on Federal Government Energy Management and Conservation Programs, Fiscal Year 1993*, issued by the U.S. Department of Energy in March 1995, net energy consumption from all sources, including electricity, at point of use by the Government of the United States in FY 1993 was estimated to be nearly 1.25 quadrillion British Thermal Units (quads). Figure 1 on p. 12 of the *Annual Report* shows that 15.4 percent of the 1.25 quads was Federal consumption of energy. Using a conversion factor of 3,413 Btu per kilowatthour (kWh) results in an estimate of total Federal electricity consumption in FY 1993 of 56 billion kWh.

Direct sales by the Power Marketing Administrations (PMA's) to Federal agencies totaled almost 4 billion kWh in FY 1993. Hence, 6 percent of total Federal net energy consumption in FY 1993 was purchased directly from the PMA's.

PMA's also provide power *indirectly* to Federal agencies by selling power at wholesale to other utilities that blend the PMA power with other power supplies and then resell it to thousands of Federal facilities at retail rates. No attempt has been made to estimate indirect PMA sales to Federal agencies.

Mr. SCHAEFER. Would the gentleman yield?

Mr. BURR. Yes.

Mr. SCHAEFER. Any member of the committee who wishes to put written questions to any of the witnesses certainly will be allowed.

Mr. BURR. Thank you, Mr. Chairman, and I will exercise that on a few because I think there are a lot of questions on this that remain unanswered. And I think one of the responsibilities that we have is to, along the lines of what Mr. Norwood said, to make sure that from a fiscal standpoint, this is a correct move for us to do, versus a knee-jerk reaction to what we perceive to be, some of us perceive to be a way to address the budget on a short-term basis.

Let me go to another statement from you, Mr. Nordhaus. "One issue of particular concern in connection with the auction sale of PMA facilities to investor-owned utilities regulated by FERC is the extent to which the purchase price of the facilities can be included in rate base. As a general rule, a purchasing utility may include in its rate base the book cost of the purchasing asset."

And I guess my question is can you sort of expand on that statement just a little bit?

Mr. NORDHAUS. There is a long-standing principle of utility regulation, which probably goes back to the turn of the century, that does not permit a utility that purchases an asset from another utility to include in the purchasing utility's rate base any portion of the purchase price in excess of the book cost of the selling utility.

This is, I think, a fairly well established principle of rate-making, one that, however, has lots of recognized exceptions to it, so I wouldn't say it's immutable.

But I think in this context, it could be particularly troublesome to a purchaser. There could end up being questions in the purchaser's mind as to whether, if the purchaser bid more than the book cost of the asset, that higher cost could be recovered in the purchaser's rates.

If the purchaser did not have that confidence, then the purchaser probably would not bid as much as the purchaser otherwise would.

My view is this is probably something that needs to be clarified if the auction sale approach is adopted, so that the purchasers know, one way or the other, what the rules are going to be.

I think the worst outcome from the Federal Government's point of view would be to get a depressed purchase price because of concern as to whether this rule would apply, and then have it later determined that the rule did not apply, so that the purchaser would be able to increase its rates even though the—

Mr. BURR. You've accomplished raising my concern about this given area, and the chairman has a very quick clock today.

Let me, if I could, just ask a follow-up, given that a utility purchases a PMA and Mr. Foley's bill or Mr. Klug's bill or some legislation that we write limits the ability of that utility to raise the rates on those ratepayers, is there anything that prohibits them from shifting that extra cost over to existing ratepayers?

Mr. NORDHAUS. Under traditional rate-making—

Mr. BURR. We call it cost-shifting downstairs in the health care hearings.

Mr. NORDHAUS. Rate-making is changing and it's hard to say what this will look like 10 years from now, but under traditional precepts anyway, if you can't get it into rate base at all, then you cannot recover it from customers. But there may be some exercise of creativity that would permit this to occur. I don't know.

Mr. BURR. Can I turn to Chair Moler? I'll stay with the title that everybody feels comfortable calling you. The expression on your face every time we say it is quite unique.

Ms. MOLER. I've gotten used to it, sir.

Mr. BURR. Would you like to comment on that?

Ms. MOLER. Basically what you're asking is if an IOU, for example, acquires PMA assets and they can't increase the rates for sales from those assets, if they can then charge their own proposed rates that would charge their own customers for the PMA assets? Am I correct?

Mr. BURR. Well, if, in fact, they're held to a structure of increases for the utility users that they have accessed in the purchase of the PMA, can they raise rates on their prior population of utility users to offset the cost of this purchase?

Ms. MOLER. They should not be able to do that.

Mr. BURR. I'm getting real concerned that, like Dr. Norwood, that this is not a great deal. And I know, Mr. Chairman, we're past that point and we're dealing more with the regulatory side, but one question that I would have to ask you is as you raise questions and we raise questions and we suggest that there has to be open transmission access, licensing of the generation facilities, rate regulation and enforcement, I guess I would ask you how much cost, through doing all of this, do we place on FERC, in additional people to follow through, to see that all of this exists?

I mean, are you going to come back next year and say, "You know, you've sold these PMA's and we need X amount of money as an increase in our annual budget because you've put all this additional work on us"?

Ms. MOLER. We have noticed that we have a lot of new work to do with less money to do it, so we already have that problem. This would clearly—

Mr. BURR. I am doing everything I can not to contribute to that.

Ms. MOLER. And we appreciate that. We should be—

Mr. BURR. Is that something we should be concerned with?

Ms. MOLER. I really don't think the problem you pose is a real problem. We have rate allocation authority. We can make sure that customers just get charged for the facilities that serve them. And I'm sure the States who have, after all, the retail rate-making authority, would be zealous in ensuring that their customers don't pay for assets that they aren't using.

It would, of course, be most useful if you would deal with this issue in the already legislation. But I don't think in the real world it's a real problem.

Mr. BURR. Thank you. Mr. Chairman, I yield back. I hope we have a second round.

Mr. SCHAEFER. Yes, the gentleman will have another one. The gentleman's time has expired.

Chair Moler, FERC has spent a great deal of time addressing this issue of recovery of stranded costs. I'd like to ask does the issue of these stranded costs fit in with an investor-owned utility purchase of PMA facilities?

Ms. MOLER. I don't think so. Stranded costs is a very critical issue in an open access environment, so that the utilities can make sure that they can recover the investments they have already made and been required to make under an obligation to serve.

But I don't believe that they would be foolhardy enough to pay more than they think they can absorb, pay more for the PMA's than they think the market will bear in a competitive environment, and then have the audacity to suggest that it's a stranded cost.

We have a notice of proposed rulemaking on the street that deals with stranded costs. We have said that utilities cannot come in with any new stranded cost proposals for new facilities that are put in service unless they deal with it contractually. So I think they wouldn't make that mistake.

Mr. SCHAEFER. So a purchaser of a PMA, could they seek stranded costs as a result of purchasing the PMA assets?

Ms. MOLER. I don't believe that—we're saying in our proposed rulemaking that they can recover costs that are stranded as a result of the rulemaking, if you will. This would not be as a result of the rulemaking.

Mr. SCHAEFER. I see.

Ms. MOLER. And I just don't think that's a concern.

Mr. SCHAEFER. So it really wouldn't be a stranded cost, then.

Ms. MOLER. No, it would be a new asset, I think is the way they would view it, and they would also view the transmission as a way to open up new markets hopefully, if they acquired them.

Mr. SCHAEFER. Well, then, if it wouldn't be a stranded cost, could it cause other utility investments to be stranded costs?

Ms. MOLER. I don't see that as an issue. I'll think about it and talk to people and if I change my mind, I'll let you know, but I don't think it's an issue.

Mr. SCHAEFER. There will be a lot of these technical things. As Mr. Burr indicated, if indeed legislation starts to move in this direction, we're going to have to be asking a lot of these questions.

Transmission access, what would be the result of not requiring open access transmission over any privatized PMA facilities?

Ms. MOLER. Then they could block access where utilities want to shop for power.

Mr. NORDHAUS. Subject to their rights under 211.

Mr. SCHAEFER. I'm sorry?

Ms. MOLER. Under the Energy Policy Act of 1992, we have authority to order transmission access on a case-by-case basis. We've found the process doesn't work very well. We're doing the best we can with it.

Mr. SCHAEFER. But even if that was privatized?

Ms. MOLER. If they were privatized and if you didn't deal with the open access issue in the legislation, we have authority to—we believe we have authority to, under the Power Act, to require the IOU's to open up.

The problem would come about, theoretically, if the PMA assets, transmission lines, were acquired by an electric power cooperative or a municipal utility and there we would have to proceed case-by-case, though a lot of the municipals are telling us that they are in favor of open access. Indeed, they supported the legislation in the first place and were the prime movers of the legislation, and they are telling us they're going to open up, but we don't have tariff filings from them yet.

Mr. SCHAEFER. Is there any privatization scenario under which a purchaser of a PMA's transmission facilities would not be subject to the transmission access provision of the Federal Power Act?

Ms. MOLER. I don't think so but the question would be whether you want us to have to proceed case-by-case and through a really cumbersome process or whether you just want to require it as a condition of the sale.

Mr. NORDHAUS. Mr. Schaefer, I was going to mention that there would be a gap in existing law that would not permit the Federal Energy Regulatory Commission to impose its open access rules on a cooperative or a municipal purchaser of a transmission asset.

However, the Department would intend, assuming it had general conditioning authority, to condition any sale of transmission assets on the purchaser providing open access transmission services. It may be that it would be more desirable to have a statutory provision, but we would try to take care of that administratively.

Mr. SCHAEFER. Yes, there is a gap there and so maybe we would have to amend the Federal Power Act.

Mr. NORDHAUS. Yes, sir.

Ms. MOLER. In addition, sir, it's trivial but we have authority to order a co-op or municipal to carry for an individual transmission or to open its system, but we don't have it for an individual application. We don't have authority, even under the existing law, on a case-by-case basis, to require them to carry for anybody who shows up.

So again, it's case-by-case. It's expensive. It's time-consuming.

Mr. SCHAEFER. The Chair just has one more question. Would there be any competitive advantage to a purchaser not being subject to the open access rulemaking?

Ms. MOLER. Yes. If they have expensive power, they don't want to let the folks with the cheap power to sell into their service territory.

Mr. SCHAEFER. I understand. I recognize the gentleman from New Jersey.

Mr. PALLONE. I'm just going to go back, Chair Moler, to the PMA's being treated differently from other utilities under the Federal Power Act.

What would be the impact if the PMA's were sold off and the successors are not treated like other utilities? In other words, would we be making things worse than under current law if we sold the PMA's without putting them on an equal footing?

Ms. MOLER. Yes.

Mr. PALLONE. In your testimony, you pointed out that the legislation should give direction as to whether the dams and generating facilities connected with the PMA hydropower should be licensed like private dams. I guess I'm still not clear on this whole idea of how you're selling off the generating facilities but not the dams and where that line is drawn. Do you want to comment on it?

Ms. MOLER. In your mind, think of a Corps of Engineers flood control project.

Mr. PALLONE. That's easy.

Ms. MOLER. Okay, there are lots of them. Somebody gets a bright idea that they want to put an engine, a generator, on the Corps project.

Mr. PALLONE. Right.

Ms. MOLER. Okay? The Corps owns the facilities, but a co-op or an investor-owned utility can own the generating capacity at that dam.

So the question is whether you want to sell, in this privatization, whether you want to just sell the generator, the jet engine, if you will, or whether you want to sell the whole Corps project.

Mr. PALLONE. Okay. But it just seems to me that having them under two different regimes may cause some problems somewhere down the line.

Ms. MOLER. It does from time to time cause problems now. We make our licensees, where they are locating at Corps projects, be subject to the Corps' flood control requirements. We have messy pending cases right now where the operating regime is confused. And if the water is on the rise, how close does it have to get to flood stage before the Corps takes over, and that sort of thing.

It's a fact of life. If you want to get the ability to generate power at those dams and contribute hydropower production, then we try to make it work now. It works well at lots of places.

Mr. PALLONE. I guess I want to be clear in understanding, since the FERC has to balance the environmental and development values in the hydro licensing, in the procedures, does it mean that some of these PMA-related facilities might not be able to be licensed? I mean, is that going to happen?

Ms. MOLER. Well, we think it's a question that should be answered in the legislation.

Mr. PALLONE. Okay.

Ms. MOLER. Who's in charge? If we're not, the States might think they're in charge.

Mr. PALLONE. But, I mean, that's going to affect their market value obviously.

Ms. MOLER. Unless you answer this question, people won't bid as much for these things. It's real basic.

Mr. PALLONE. Well, apart from maximizing the sale value of the PMA's, is there any reason to continue exempting these hydro facilities from the laws which govern everyone else?

Ms. MOLER. We, of course, think not.

Mr. PALLONE. Have you commented on the equities of selling the PMA's; in other words, either with respect to the impact on the ratepayers or the impact on their entry into this increasingly competitive national electricity market?

Ms. MOLER. No, sir.

Mr. PALLONE. And you don't want to?

Ms. MOLER. The administration has a proposal. We have particular concerns about what is within our bailiwick.

Mr. PALLONE. Okay. Well, is the mere fact of selling them a competitive concern, or does it depend more on how you go about it?

Ms. MOLER. I don't think the mere fact of selling them is a competitive concern, no.

Mr. PALLONE. But the way we go about it is obviously going to matter.

Okay, those are all my questions, Mr. Chairman.

Mr. SCHAEFER. I thank the gentleman and would recognize the gentleman from North Carolina again, Mr. Burr.

Mr. BURR. Thank you, Mr. Chairman.

Ms. Moler, what's the physical condition of the dams that are out there in PMA's today? To your knowledge, are there any of those that today FERC would not license?

Ms. MOLER. We really don't have any information about a lot of them because we don't have any responsibility for a lot of them. I mean, the Corps knows a lot about dams. Actually, we have a cooperative sort of information-sharing arrangement with the Corps and do inspect a couple of them for them on a—

Mr. BURR. But it's their responsibility?

Ms. MOLER. But they're in charge of those dams, yes, sir.

Mr. BURR. If the FERC has the authority to really withhold licensing, should FERC be given the ability to, at some point in the future, on any of these facilities that PMA's own, to make the decision, "No, we're not going to continue; we're not going to give you your hydroelectric license"? Should you have that ability?

Ms. MOLER. We believe that we have authority under the existing law. Certainly we have authority to deny licenses in the first place because we determine that they're anathema to the environment or aren't economic, or whatever.

We also believe that we have authority under existing law for the rest of the dams to say that a project which has been operating for a number of years should not be relicensed because it has such a

terrible environmental record or we just cannot mitigate the damages.

Mr. BURR. And of course, the difference that we're talking here is that we're preparing to take these PMA's and sell them. We're asking people to—we're trying to maximize the sales cost.

Now, I think we might question as to how much we're trying to maximize it because I think we're spending a lot of time talking about conditions, and I think that's right. Please don't take that the wrong way.

One of the things that Mr. Foley raised in his bill was a 10 percent annual cap on rates, and I would ask you if either one of you have read that bill. The way I read it, that is not a retail cap; it is a wholesale cap.

Mr. NORDHAUS. I had read it the other way.

Mr. BURR. You'd read it the other way?

Mr. NORDHAUS. But let me take a look at it.

Ms. MOLER. It talks in terms of "Each purchaser of electric power generation facilities providing electric power to customers within any region." So to me, you can read it as either wholesale or retail.

Mr. BURR. If you read it as retail, do we preempt state authority in that legislation? If I understood you correctly earlier, the States have the jurisdiction to set retail rates.

Mr. NORDHAUS. Conceptually, I'd regard it as a condition of sale but the purchaser is bound not to increase rates more than that amount. The State could not authorize an increase beyond the 10 percent, but would be free to hold down the rate, assuming we're talking about retail rates. Let me go back a step.

The sales condition is at the wholesale level, that is, it is a condition in a contract between DOE and the PMA purchaser, which will be a wholesale seller. However, this contract condition restricts rate increases which would flow down to ultimate consumer and at the ultimate consumer level it could not be more than 10 percent. Thus, the contract would apply at the wholesale level and the State would regulate at the retail level.

So I would think that the State would have latitude to go about its business of rate regulation—

Mr. BURR. But not to exceed 10 percent.

Mr. NORDHAUS. Well, I'm not sure that would be read that way because this is a contract restriction on an entity the State does not regulate. We'd have to see how it would be administered.

Mr. BURR. If my concern or the concern of any Member of Congress is with the retail consumer in their district who is now the recipient of PMA power, making sure that the annual increase—that there's not a rate shock there, do we need to adjust the wording in that legislation, and can we? What problems do we run into when we circumvent the state power?

Mr. NORDHAUS. This is a pretty complicated situation. First, because the wholesale customers are cooperatives and municipal facilities, in many cases they're not regulated by the State at all. I think municipals are regulated in 20 States and co-ops in 30 States, something like that. I don't have the current figures. That's the first question.

The second question is: you're trying to have a limitation that applies in the contract between the Federal Government and the util-

ity that's purchasing the assets and is going to resell the power to another utility, which is going to sell the power to ultimate consumers, how you administer this 10 percent limitation at the wholesale level when it's to be measured at the retail level. This is something that I think would require considerable work, both from a statutory point of view and from an administrative point of view.

You may decide you want to look at reformulating the limitation so that it's a little easier to administer.

Mr. BURR. I know the chairman is going to yank my time because I have abused it, and I would like to follow up some of the areas that I've headed into with questions to both of you, but let me just end by saying we have talked about conditions of future licensing, we've talked about rate caps, we've talked about open transmission access.

I would just like to ask both of you, if you were in the market to buy a hydroelectric facility, given the conditions that I think are going to be on this when we finally end up, would you be in the market to buy one of these PMA's?

Ms. MOLER. I would respectfully defer to the testimony of those people who are in the marketplace, and you're about to hear from them. They are telling you that, and I've read the testimony, that there are people who are vitally interested in purchasing these assets.

So they know more about that than I do.

Mr. BURR. I think we're all in agreement. At which cost is yet to be determined, and I think that's where we have a responsibility.

I thank both of you. Mr. Chairman, I yield back the remainder of my time.

Mr. SCHAEFER. The gentleman has already used time in the next round. The Chair is not certainly going to cut him off. If he still has some more questions, we're certainly going to recognize him again.

The Chair recognizes the gentlelady from Arkansas, Mrs. Lambert Lincoln.

Mrs. LINCOLN. Thank you, Mr. Chairman.

I was interested in the answer that Mr. Foley gave in questioning about his bill, and I just wanted to point out, as I've read the text or the outline of the text of his bill, that it does actually, in section 3, authorize and direct to the Secretary of Energy to take such steps as necessary to sell all electric power generation facilities and transmission facilities.

So that does not mean just the generating capability. It means the actual facility. Have you read his bill, Ms. Moler?

Ms. MOLER. Yes, I have, several times.

Mrs. LINCOLN. Did you get that same assumption from the bill, that he was actually proposing the sale of the facilities?

Ms. MOLER. I don't pretend to be an expert on his bill and would respect what he says he intended. We were talking about the hydro facilities in particular. I read that to mean that you sell the generator and the other stuff that has to do with the hydroelectric generation, but not the dam itself.

Mrs. LINCOLN. But then doesn't that come to, I guess, the problem of regulation in terms of you will have to immediately license those dams, correct? Do you license only the turbines? Do you license the dam in total?

Ms. MOLER. If they are government-owned dams, then we license only the turbine and the operational aspects of the—

Mrs. LINCOLN. Not the concrete.

Ms. MOLER. Not the concrete, or the dirt, as the case may be.

Mrs. LINCOLN. Okay. But you would immediately have to license those portions of the generation facilities, correct?

Ms. MOLER. You would have to deal with whether we have to immediately license them. While you were away I did say that we have suggested that the legislation grant a license for a period of time.

Mrs. LINCOLN. Just on assumption?

Ms. MOLER. No. Just say as part of this sale, this authorization for sale—

Mrs. LINCOLN. You get a 10-year waiver?

Ms. MOLER. You get an initial 10-year license, and then you have to go in for a relicense, if you will. And we would need lots of information about how to go about doing that so you'd define how it is currently operated and respect that for some period of time, because otherwise, you're not going to be able to sell these things.

Mrs. LINCOLN. Well, I would just reiterate the words of my colleague, Mr. Norwood, when he did say that it is making a tremendous amount of money, or they are. I know Southwest Power Administration, at the cost of \$21 million, is bringing back about \$92 million to the government.

So it's not really that broke in terms of when we talk about cost to the government or to the taxpayers. I think it is paying off.

Back to the dams, will all of the dams meet licensing requirements under your—there's no way to know?

Ms. MOLER. I'm not aware of any big problem with any of the PMA dams as far as meeting licensing requirements. I'm sure one can get into a lively debate about whether you should have more or less water flow for fish and wildlife and recreational purposes and so on and so forth, but I'm not aware of any big problem about them.

Mrs. LINCOLN. Well, in your testimony you state that "Absent instructions to the contrary in terms of the legislation presented, the Federal Power Act would require us to commence licensing proceedings for such facilities." And then you go on to say, "giving equal consideration to the development of environmental values of the project."

So in essence, you do, in terms of that licensing, have to look at all aspects of that, in terms of environment; is that right?

Ms. MOLER. Yes, and they are difficult, protracted proceedings.

Mrs. LINCOLN. In terms of the rate caps that Mr. Burr was talking about, is that some of what you were alluding to earlier, Mr. Nordhaus, in that the 10 percent could be 50 percent?

Mr. NORDHAUS. My reading of it is that it's 10 percent at the end user level and that 10 percent can translate into a quite considerable increase at the wholesale level if the retailing utility gets less than 100 percent of its power from the PMA, from the former PMA.

So for instance, if the retailing utility got 10 percent of its power from the former PMA, a 10 percent rate increase at the end user level could translate to a 100 percent rate increase at the wholesale level. And that type of increase can be significantly disruptive for the retailing utility.

Mrs. LINCOLN. Is this somewhat of a precedent in that we have never really written into statutes—I don't know, and I guess I'm really asking you all—Federal caps on retail rates?

Mr. NORDHAUS. Could I go back just to make sure that the committee understands? The administration proposal was to build rate protection in a different way, by giving the existing firm power customers a preferential right of purchase at the net present value of the future repayment stream to the Federal Government.

And our conclusion, after having looked at rate caps, was that they were going to be very difficult to administer and that the preferential right of purchase that's provided for in the administration bill is a better mechanism to ensure that there will not be significant rate impacts.

I am unaware of any provision quite like the rate cap in other Federal law. In my view, it could be, with some work, it could function but it's going to have to be—

Mrs. LINCOLN. It is somewhat of a precedent, then.

Mr. NORDHAUS. [continuing] carefully worked out.

Mrs. LINCOLN. Well, I know that Ms. Moler and the folks at FERC have worked very hard to not step on the toes of the States and have done an excellent job in that, and I just am concerned, in terms of what we're talking about here, whether we are seeing a precedent set in terms of setting those rates in a statute.

I yield back the balance of my time, Mr. Chairman. Thank you.

Mr. SCHAEFER. The Chair thanks the gentlelady and recognizes the gentleman from Massachusetts, Mr. Markey.

Mr. MARKEY. Thank you, Mr. Chairman, very much.

Can you tell me, Mr. Nordhaus, why the administration has not embraced the privatization of the electricity function of the TVA?

Mr. NORDHAUS. For similar reasons that we did not propose to privatize Bonneville, and that is concerns as to the marketability of the system. Both Bonneville and TVA have heavy debt loads from their nuclear programs or nuclear programs they were participating in, and it's not clear that even if the administration wanted to put these systems "on the block that," that at this point the sales price would be equal to the net present value of the future payments that would come to the Federal Government. So that—

Mr. MARKEY. Why don't you put them on the block, find out what the price is, and if it's not reasonable—or set a minimum price going in? You know, auction theory has a wonderful number of variations in terms of how it can be constructed. We're seeing that through the spectrum auction here. We realize that all spectrum's not equal. All PMA's won't be equal.

Mr. NORDHAUS. There are a couple of other reasons why one would have concern with privatizing these two systems. The first concern is whether we'd be able to get enough money. The second concern is with the dominant position of these two, Bonneville and TVA, in their respective regional markets, both as transmitting utilities but also as sellers, and I think there would be considerable

concern about market power in the hands of the purchaser of the systems.

The third concern is the——

Mr. MARKEY. Could you break up TVA into smaller parts and auction them off, as we're doing with the spectrum, in different parts? We don't auction off the whole spectrum to one big company. We could probably make a lot of money, but we have a public policy objective, and market——

Mr. NORDHAUS. I don't know, is the answer. The third concern I was going to raise, Congressman, was particularly with Bonneville, and I'm less familiar with TVA, what both Bonneville and TVA do is run an integrated system where they calculate the flows for the whole system and try to maximize the power production from a whole river basin, rather than from individual dams.

Mr. MARKEY. I appreciate that but that's just an accounting problem. We can get to disaggregated accounting standards that would be able to tease it out. It would take 6 months, perhaps, before you could set up the auction, but you clearly could do that.

Mr. NORDHAUS. Respectfully, there's also a flow management issue here, and that is——

Mr. MARKEY. In other words, we have to figure out the telecommunications flows, how much is allocated to this transmission switch and whatever, and it's not that it's easy, but you can achieve it. Clearly, then, you just foist the thing off onto the State of Tennessee to then figure out after that. You're done. Here it is. It's your problem. Now you spend the money to figure it out.

Mr. NORDHAUS. What I want to do is just give you some of the concerns we have.

Mr. MARKEY. I realize, but you haven't given me a real concern yet. I'm waiting for something that couldn't be accomplished. You're giving me a difference in scale but not in type of a problem that you're going to have to face with these other marketing authorities, as well, and all you've made is kind of a calculation that these problems are too big in each one of the categories, but the other categories clearly have to be addressed anyway.

Mr. NORDHAUS. I thought what I'd do is share with you what our considerations——

Mr. MARKEY. I appreciate that, but are you open to privatizing the TVA? Would you like that read to not make you responsible for answering that question?

Mr. NORDHAUS. The last refuge of the government witness is to say, "Well, this actually is a matter within some other agency's jurisdiction."

Mr. MARKEY. That's not a good answer for the Department of Energy at this time. You see, you want to say, "No, we know everything about energy."

Mr. NORDHAUS. I do not believe that the administration would support privatization of either Bonneville or TVA——

Mr. MARKEY. Ah-ah. I think we have a political problem here. And those of us who are committed to free market principles, I think, are not going to rest until the same principles are applied to TVA and BPA.

And if they are, and I appreciate the chairman's indulgence, I would like to just know why we can't include, for at least the other

marketing agencies, but why can't we include the irrigation and flood control responsibilities, as well? Why can't they just purchase the whole thing?

I mean, you purchase a nuclear power plant, you don't say, "Well, all I want is the electrical generating capacity; you take care of the nuclear waste and you take care of that." Of course, that would be a nice deal.

You don't say, for oil, "By the way, you can purchase that plant but the scrubbers and maintenance of the plant is yours; we just get the electricity."

I mean, every single electrical generating source has its own attendant additional responsibilities that exist because you're generating that way. And if I were an electrical marketer, the way these industrial investor-owned utilities are, I wouldn't want any of the rest of the attendant responsibilities, but how can you sell without giving them the whole deal?

Mr. NORDHAUS. I guess from my discussions with would-be purchasers, I've detected little interest from their part in taking over the irrigation and flood control functions.

Mr. MARKEY. How do we do it in the rest of the country that doesn't have Federal Government involvement in electric generation, hydro?

Mr. NORDHAUS. In the Northeast, as I understand it, there are some Corps of Engineers dams that are flood control only.

Mr. MARKEY. But I mean non-Federal Government dams? How do we do it?

Mr. NORDHAUS. It's done through the licensing process that FERC administers, and a licensee builds a dam that typically is designed for hydroelectric production and operates the dam under conditions imposed by—

Mr. MARKEY. So Chairwoman Moler, right now, has to figure out how to handle that regulatory scheme to make sure that the irrigation and flood control and other related issues are properly discharged; is that correct, Ms. Moler?

Ms. MOLER. Yes. We have licenses that—lots of water is coming; they open appropriate portions of the dam. But most of those, they do not have as their principal reason for being flood control.

Mr. MARKEY. I know that, but again, this is the Father, the Son and the Holy Ghost here. It may be that they have other identities but it's beyond my capacity to be able to say which part of it is predominant at any particular point in time.

All I know is that there are entities that have right now a regulatory scheme that's able to sort out electricity from irrigation from flood control, right?

Ms. MOLER. Absolutely.

Mr. MARKEY. Why couldn't we do that, Mr. Nordhaus, with these properties, as well?

Mr. NORDHAUS. Talking about Hoover Dam and Glen Canyon dam passing into private ownership?

Mr. MARKEY. Yeah, why not?

Mr. NORDHAUS. Congress could consider it.

Mr. MARKEY. They run bigger things. Private sector runs a lot bigger things than the Hoover Dam. They're responsible for the entire electric generating grid, all telecommunications in America. I

mean, the Hoover Dam is a relatively prosaic responsibility compared to—

Mr. NORDHAUS. I'll leave that to the judgment of the committee.

Mr. SCHAEFER. The gentleman's time has expired. Does the gentleman from California have any questions?

Mr. MOORHEAD. I just ask unanimous consent that my opening statement be made a part of the record.

Mr. SCHAEFER. The opening statement of everyone on the committee has been made a part of the record, without objections.

I do not have any other questions. If no one else on the committee does, the Chair wants to thank Chairwoman Moler and Mr. Nordhaus for their testimony today. You've shed a lot of light on some very technical things.

And as I did indicate before, there may be some additional questions that we'll have to try to get some answers to, particularly if any of this legislation starts to move.

Ms. MOLER. Thank you, Mr. Chairman.

Mr. SCHAEFER. The Chair would now call up Mr. Thomas R. Kuhn, President of the Edison Electric Institute. Mr. Kuhn, thank you very much for being here today on this, what could be a very important issue. We're looking forward to your oral testimony. Your written testimony will be made a part of the record in its entirety.

STATEMENT OF THOMAS R. KUHN, PRESIDENT, EDISON ELECTRIC INSTITUTE

Mr. KUHN. Thank you very much. It is a great pleasure to testify before this committee once again in the clean-up position, and I certainly commend you for holding hearings on this extremely important subject. It is certainly a very, very key one.

I am President of the Edison Electric Institute and our member companies serve three-quarters of the Nation's electric customers, including 60 percent of rural Americans.

The country's wholesale electricity market is becoming increasingly competitive. Non-utility generators provide more than half of our new energy capacity. Other players in the wholesale market can gain access to our transmission system at rates and terms comparable to those we provide ourselves.

This country's 3,000-plus utilities find themselves to be customers and competitors at the same time. This isn't yesterday's utility industry.

Because the market is competitive, the Federal Government should not be an electricity provider that favors only certain players. Sale of the PMA's offers an opportunity to reduce the government's role as an electricity supplier and to enhance competition.

Let me turn now to the specifics of the sale. EEI's member companies support the sale of the PMA's assets in a way that maximizes the benefits to the American taxpayers while providing protection from significant rate increases to current customers. And I reemphasize that—while providing protection from rate increases to current customers.

First, all interested parties should be allowed to bid on the PMA's assets. This approach will achieve the highest possible return to the Treasury. Preference customers don't have an equity in-

vestment in these assets that entitles them to be the only bidders. They didn't take any risk to build them. They won't receive a title or deed when the taxpayers are finally paid back for their investment. Preference customers have paid for and received electricity.

Preference customers should be able to bid, along with everyone else, when these things are put up for bid.

Second, legislation should include rate protection for current customers. A study for EEI by the EEOP group showed that almost 85 percent of the preference customers residential consumers would see rate increases of less than 5 percent, even without any rate protection.

Even so, imposing rate protection up front in the legislation is the only way to assure concerned constituents that a sale won't significantly increase their electric rates. Several mechanisms are available to provide rate protection, which I have described in my testimony.

Third, the sale price should maximize return to the taxpayers' investment. The EEOP group analysis shows the combined value of SEPA, SWPA and WAPA to be just under \$9 billion. In addition, sale to taxpaying entities should generate a revenue stream from taxes whose present value exceeds \$1 billion.

There has been discussion here as to whether or not this would be a good investment. Right now these things are a terrible investment to the Federal Government. The current cash flow from PMA's is a bad investment for taxpayers. The Treasury is experiencing a negative spread between the interest rates paid by Treasury to borrow money and interest rates paid by the PMA's.

So I don't think the analysis that was talked about before, in terms of how much interest they pay every year vis-a-vis the appropriations, is a good indication of what the investment is for the Federal Government. You have to look at that other aspect, which is the difference between what the PMA's are paying in interest cost and what the Federal Government is paying in interest cost, which is significantly higher.

Fourth, private capital financing should be used to purchase the PMA's assets. Allowing buyers to use federally subsidized financing simply trades one subsidy for another.

It is essential that the legislation address FERC jurisdiction over these facilities, which is the issue that comes before this committee. FERC has very limited authority over the PMA's rates and access to their transmission systems.

If the PMA's assets are sold, we feel strongly that the power and transmission rates charged by the new owners should be subject to FERC review under its traditional just and reasonable standard, and any open access transmission regulations adopted by FERC should apply equally to the PMA's transmission systems.

Congress can address the hydroelectric relicensing issue in several ways, which are outlined in my written statement. Let me emphasize that without a license in hand at the time the sale is completed, it will be impossible for any purchaser to obtain financing to purchase the assets.

In conclusion, we urge Congress to move forward with the sale of the PMA's through an open, competitive bidding process, to maximize value to the American taxpayers with rate protections for

current PMA customers. Such a process will enhance competition in whole electric markets to the benefit of all electric consumers.

Thank you very much, Mr. Chairman.

[The prepared statement of Thomas R. Kuhn follows:]

PREPARED STATEMENT OF THOMAS R. KUHN, PRESIDENT, EDISON ELECTRIC INSTITUTE

Good morning, Mr. Chairman and Members of the Committee. I am Thomas R. Kuhn, president of the Edison Electric Institute (EEI). EEI is the association of the nation's shareholder-owned electric utility companies, which provide electric service to 76 percent of all ultimate electric customers in the nation. We appreciate the opportunity to appear today to explain why we support the sale of the Power Marketing Administrations (PMA's), the principles we believe should govern the sale, and several key regulatory issues which legislation authorizing the sale should address.

My primary message is that the PMA's should be sold through an open competitive bidding process to maximize the return to the American taxpayers while also providing rate protection to current customers. The federal government should not be an electricity provider that favors only certain players in an increasingly competitive wholesale electricity market with more than 3,000 suppliers.

SALE OF THE POWER MARKETING ADMINISTRATIONS

EEI's member companies support the sale of the PMA's transmission systems and the associated federal hydroelectric generating facilities currently operated by the Army Corps of Engineers and the Bureau of Reclamation.

We believe sale of the three PMA's currently under consideration—the Southeastern, Southwestern, and Western Area Power Administrations—makes sense for a number of reasons. It is an opportunity to reduce the size and cost of the federal government. It can add billions of dollars to the federal Treasury at a time when painful spending reductions are being made elsewhere. It can reduce the federal government's role in generating and transmitting electricity while expanding opportunities for other electricity suppliers. And it can further the nation's energy policy, which promotes competition in the wholesale electricity market.

Whether these goals will be achieved, or lost, will be determined largely by the terms and conditions of the sale. The overarching principle to guide the terms and conditions of sale should be to maximize benefits to the federal government and to the taxpayers, who are the "owners" of the facilities and the electricity they generate and market, while providing protection from significant rate increases to current customers.

The majority of PMA customers are municipal electric systems, electric cooperatives, as well as some federal and state agencies, who by law are entitled to PMA power on a preference basis at the lowest possible rates. Shareholder-owned electric utilities purchase small amounts of excess PMA power, on a non-preference basis, at rates which vary depending on the circumstances of the sale.

The issues which will most determine the level of benefits to taxpayers and to the economy as a whole resulting from the sale of the PMA's assets fall into four basic categories: first, the sale price, and how it should be set; second, protection of current PMA electricity customers from undue rate increases; third, who shall be allowed to bid on the facilities; and fourth, how the sale should be financed. I will address each of these areas briefly.

The sale price should maximize return on the taxpayers' investment.

In its fiscal year 1996 budget, the Administration estimated a price of \$4.4 billion for the three PMA's based on the net present value of the PMA's projected repayment of the federal investment. We believe this sale price, as well the energy asset sale assumptions in the FY 1996 congressional budget resolution, is a significant undervaluation of these assets which short-changes the federal Treasury and the American taxpayers. To put it simply, the PMA's are worth more—and an open bidding process would prove this.

EEI commissioned The EOP Group, a Washington D.C. consulting firm which specializes in identifying government-created business opportunities, to conduct a market-based study of the PMA's. That study shows the combined value of the three PMA's to be just under \$9 billion, more than twice the Administration's estimate. In addition, if the facilities are sold to taxpaying entities, the federal government could reap an income stream from taxes on revenue and interest whose present value exceeds \$1 billion. These figures are based on conservative financial assumptions.

tions using standard accounting methodologies. Attached to my written testimony is a copy of the EOP analysis, including the assumptions.

The potential sale price of these assets helps refute the claim being made by opponents of a sale that the government will lose a significant cash flow by selling these assets. This simply isn't true. The current cash flow is not a "profit;" it is merely a repayment of taxpayers' dollars used to build and operate these facilities. On the other hand, sale of the PMA's to a tax-paying entity would yield an ongoing cash flow for the government.

It is not a good deal for American taxpayers when the government pays a higher interest rate for the money it loans to the PMA's than what it earns on the PMA's interest repayments. In essence, the federal government has a negative spread on its investment. For example, the Western Area Power Administration's (WAPA) Fryingpan-Arkansas project will repay the federal investment at a 3 percent rate; the Treasury was borrowing at an average long-term interest rate of almost 12 percent when the project went into service. The Southwestern Power Administration's (SWPA) Harry Truman project will pay back the Treasury at a 3 percent rate, even though the average long-term Treasury rate was more than 12.2 percent when that project went into service. And, the Southeastern Power Administration's (SEPA) R.B. Russell project will pay back its federal investment at a 6.1 percent rate when the average long-term Treasury rate at the time was 10.8 percent.

American taxpayers are not even assured of receiving these repayments on a timely basis. For example, as of 1994, SEPA had repaid less than 32 percent of the taxpayers' investment in its facilities, even though some of these investments were made more than 45 years ago. SEPA still must repay more than \$1 billion to the federal Treasury, but those repayments are not subject to a fixed schedule.

Legislation should include rate protection for customers.

We recognize the need to allay concern about the impact of a sale on rates paid by the PMA's current customers. EEI believes that Congress should address the issue of rate protection up front in legislation authorizing a sale. Current customers could be protected by mechanisms such as a limit on rate increases as a result of the sale; the use of rebates to offset increases; rate caps; a phase-in approach; or some combination of these. In fact, specifically including rate protection in the sale legislation is the only way to assure concerned constituents that a sale will not significantly raise their electric rates. Additional protection for current customers can be provided by a requirement that the purchaser of the PMA's assets honor existing contracts.

The argument that current ratepayers can be protected only by selling these assets to preference customers at the net present value of the current debt is specious. This approach provides no rate protection because rates charged by government-owned utilities and electric cooperatives are not subject to review by the Federal Energy Regulatory Commission (FERC) or, in most cases, by state commissions.

Even without statutory or regulatory rate protection, The EOP Group projected that about 85 percent of residential consumers of preference utilities would experience an increase in rates of less than five percent. This calculation assumes a "worst case" scenario, where the assets are sold for \$8.9 billion and the sale occurs with no transition time and no special protections for ratepayers. That is less than the actual, historical increases many of them have experienced due to variations in weather or other factors.

The EOP study concluded that inclusion of rate protections in the sale would lower the potential sale value by ten percent at most—if that. That still leaves a potential cash infusion for the Treasury of more than \$8 billion, plus the tax revenue stream that can be achieved through the sale. This remains substantially more than the present Administration and Congressional estimates. Clearly, the range of possible, workable options has not been fully explored, and it should be.

Of course, it is important for Congress to understand the one-to-one correspondence between rates and value; the lower the rate path, the less the government will receive from the sale. This is a trade-off which Congress must resolve.

All eligible purchasers should be allowed to bid.

By specifically addressing the rate protection issue in legislation, Congress can then authorize an open sale process, and let the market set the price and choose the purchasers. EEI advocates a sale process that is open to shareholder-owned utilities, electric cooperatives, municipal electric systems, and non-utility generators. Only a sale that is open to all qualified bidders will achieve the highest possible payment to the Treasury. And, as Congress struggles with painful budget choices, it simply does not make sense to leave billions of dollars on the table from the privatization of the PMA's assets.

There are a number of parties who have expressed interest in bidding on various PMA assets. Limiting buyers to preference customers will hold down the purchase price, and does not ensure ratepayers are protected. Instead, this approach perpetuates protectionism for preference customers and limits taxpayer benefits to a select few.

Some proponents of a closed sale argue that only the preference customers should be able to purchase these assets because they have an "equity investment" in the PMA's. This argument is an absolute myth. That's like saying just because I buy my groceries from Safeway or Giant, I have an equity investment in the building or in the Safeway corporation.

The preference customers are buying power; buying a service or a commodity does not automatically grant ownership in the selling company or its facilities. The preference customers did not take any risk to construct the PMA's assets. Preference customers did not borrow the money to build the assets. They will receive no title or deed if and when the taxpayers are finally paid back for *their* investment in these assets. And, Congress is not debating the apportionment of revenues among preference customers that will be received from a PMA sale, which Congress would have to do if preference customers had any equity in the facilities.

In fact, the American taxpayers "own" the PMA facilities because they have built them and paid for their operation with tax dollars. So, in essence, all taxpayers have an "equity investment" in the PMA's, even though only a few of them have ever benefited from the facilities. For years the vast majority of taxpayers have supported a program from which they received no benefit. The residents of Ohio, Michigan, New York, Connecticut and Pennsylvania, for example, have supported the PMA's through their federal taxes even though the PMA's do not sell electricity in those states. All taxpayers deserve to get the best sale price for these facilities because all taxpayers have paid for them.

We were extremely disappointed when the Administration proposed selling the PMA assets in a closed process to the preference customers. The U.S. Department of Energy has been actively engaged in encouraging other nations to privatize their energy sectors. As Secretary O'Leary stated in testimony earlier this year, "By creating a framework where market discipline replaces state domination over the economy, fair and open competition can work to improve investment climates... Yet most infrastructure projects, including those in the energy sector, have fallen exclusively in the domain of the state, subjecting them to bureaucratic inefficiency and excluding foreign participation." It is ironic that the Department is reluctant to help achieve the same benefits of privatization within the U.S. electric industry. The Administration encourages private U.S. companies to invest in energy projects overseas but opposes their ability to invest in these energy projects in this country. U.S. actions abroad are inconsistent with the legislation it has proposed here.

Capital market financing should be used to purchase PMA assets.

If benefits to the Treasury are to be maximized, it is imperative that federally subsidized financing not be used to finance the sale. This would include tax exempt bonds or loans provided by, or guaranteed through, agencies, such as the Federal Financing Bank or the Rural Utilities Service. To allow buyers to finance purchase of the PMA's with funds that are, in effect, provided by the federal government would simply trade one federal subsidy for another.

Sale of the PMA's offers the opportunity to end the subsidies associated with this program. That benefit to taxpayers will be negated, however, if the government reaches right back into taxpayers' wallets to finance the sale. There is a more appropriate source of capital. It is private financing. International capital markets have raised roughly \$64 billion to finance utility sector privatizations in the last decade.

Other Issues: Transmission Access and Facility Licensing.

The PMA's, in particular WAPA, own significant transmission systems which operate as part of the country's integrated transmission grid. However, because the PMA's are an entity of the federal government, FERC has limited authority over the rates they charge and access to their transmission systems. In the Energy Policy Act of 1992, Congress gave FERC the authority to order utilities to provide access to their transmission systems to other utilities, non-utility producers and other participants in the wholesale electricity market. This authority applies to the PMA's as well.

Earlier this year, FERC issued a major proposed rule, which would require shareholder-owned utilities to file open-access tariffs with the Commission. Each shareholder-owned utility must provide transmission services to third parties at rates, terms and conditions comparable to those it provides itself. Ironically, FERC does not have jurisdiction to apply this sweeping open access rule to transmission sys-

tems owned by the PMA's—or, for that matter, to the transmission systems owned by electric cooperatives or government-owned utilities.

EEL feels strongly that the PMA's assets, upon privatization, should be subject to FERC's full jurisdiction. Both the power and transmission rates charged by the new owners of the PMA's facilities should be subject to FERC review under its traditional "just and reasonable" standard. In addition, any open access transmission regulations adopted by FERC should apply equally to the PMA facilities being sold.

Another issue the sale must address is the licensing of hydro facilities. The federal hydroelectric facilities associated with the PMA's are currently exempt from FERC licensing. However, electric utilities must obtain a license for their hydro facilities from FERC. FERC's hydro licensing process is arduous in terms of cost, scope and overall length, second only to the Nuclear Regulatory Commission's nuclear licensing process in terms of cost, scope and overall length. It can take anywhere from five to fifteen years to obtain a FERC hydro license.

This commitment of time, money and resources absolutely necessitates that Congress address the issue of licensing in legislation authorizing the sale of the PMA's assets. Otherwise, it will be virtually impossible for any interested party to obtain the financing necessary to purchase these assets. Just as no bank will make a loan to purchase a house without knowing that there is a clear title to the property, investment firms will be unwilling to finalize financing without knowing that the purchaser of a PMA's hydro facility will definitely obtain a FERC license.

Congress can approach the licensing process in several ways. For example, it can continue to exempt these facilities from the FERC licensing process under Part I of the Federal Power Act. These facilities have been operated by the federal government in accordance with environmental laws and multipurpose requirements for as long as 50 years without a FERC license.

Another approach would be to capture the current operating conditions of the facility as a FERC license, with a specified minimum license term, after which the facilities would be subject to FERC's normal relicensing process. These conditions would include, among other parameters, navigational and flood control requirements, minimum flow practices, generation schedules and water quality requirements. Because the purchaser would operate the facility in a manner identical to the federal government, the surrounding environment would not be impacted as a result of the sale. In fact, because of FERC's authority to administer and enforce the terms and conditions of the license, the facility would be subject to improved regulatory oversight. In addition, under FERC's licensing process, any interested party can file a complaint with FERC that the licensee is not abiding by the conditions of the license.

THE PMA SALE: A BROADER CONTEXT

While the issues just discussed are ones Congress must address in setting the sale, it is important as well to consider the PMA's sale within the full context of an increasingly competitive wholesale electricity market and the extent to which federal subsidies to government-owned electric utilities and electric cooperatives distort this market.

Federal Subsidies to Utilities

During roughly the first four decades of this century, the federal government instituted a number of programs and policies to spur development and economic growth into what were then primarily remote, rural areas of this country. One of the goals was to ensure that rural and small-town America had electric service. To help accomplish this, the government began selling surplus power from federal dams served by the PMA's. This electricity was sold with a preference for municipal purposes and, later, electric cooperatives. In the 1930s, rural assistance was extended when the Rural Electrification Administration was established to provide low-interest financing to electric cooperatives to help build electric systems in rural areas. The Tennessee Valley Authority (TVA) also was established to provide flood control protection and electric service in the Tennessee Valley region.

These programs have served the nation well and accomplished their mission. In the early 1930s, only about 12 percent of rural America had electricity. Today, more than 99 percent of rural America is electrified. Yet only one out of ten electric cooperatives' customers are farmers or ranchers. Ironically, the benefits of the federal subsidies do not reach the majority of rural Americans today. This is because the majority of rural Americans receive electric service from shareholder-owned utilities, who do not receive these subsidies.

Shareholder-owned utilities provide electric service to almost 60 percent of Americans living in rural areas with fewer than 1,500 people, or in unincorporated rural

areas. Small-town America also is predominantly served by shareholder-owned utilities. Almost 80 percent of rural Americans living in areas with a population between 1,500 and 2,500 people receive electric service from shareholder-owned utilities.

This Subcommittee may be interested in knowing, for example, that shareholder-owned utilities provide electric service to 98 percent of rural Americans in New York, 89 percent in California, 86 percent in Michigan, 76 percent in Ohio, 72 percent in Virginia, 69 percent in Illinois, and 67 percent in Florida.

Even though the country has changed in the last half century, preference and other federal subsidy programs to government-owned utilities and electric cooperatives continue. These programs help prove the axiom that federal programs don't fade away, much less die. In fact, sometimes they even get bigger. The TVA recently commissioned a study which advocates its selling power outside the TVA fence, thus expanding TVA's role as an electricity supplier. And federal subsidies to government-owned utilities and electric cooperatives currently cost the federal Treasury and America taxpayers more than \$8 billion in lost revenues every year. Another \$3 billion in foregone revenue is lost to state and local governments.

Government-owned utilities, for example, are exempt not only from Federal income taxes but also from state income taxes and, in many cases, other taxes, such as property taxes. They finance their investments with tax-exempt funds and have preferential access to low-price federal hydroelectric power from the PMA's. Electric cooperatives also are exempt from most federal taxes and from state and local income taxes. They receive loans and loan guarantees from the federal government at interest rates below market rates, regardless of their financial ability to borrow money from private credit markets. They also are preference customers of the PMA's. The total amount of federal, state and local revenue foregone each year because of all these subsidies is \$11 billion.

In contrast, shareholder-owned electric utilities paid approximately \$22 billion in federal, state and local taxes in 1993. Shareholder-owned electric utilities consistently have one of the highest effective tax rates of any industry. While taxes and tax equivalents accounted for less than 3 percent of the operating revenues of government-owned electric utilities and roughly 4 percent of the operating revenues of electric cooperatives in 1993, they accounted for more than 13 percent of shareholder-owned electric utilities' operating revenues.

Yet, every year, representatives from the electric cooperatives claim that shareholder-owned utilities are the most heavily subsidized type of utility. What they don't tell you is that the "tax subsidies" available to shareholder-owned utilities, such as accelerated depreciation, are tax code provisions available to any tax-paying corporation. These charges are particularly interesting coming from entities that are generally exempt from having to pay any income taxes even though they provide the same services to American consumers as shareholder-owned utilities. If public power continues to be upset with the "tax breaks" that shareholder-owned utilities enjoy, we have an easy answer: make them subject to the same tax system, with the same so-called "tax breaks" shareholder-owned utilities and other tax-paying corporations receive.

Federal subsidies to government-owned utilities and electric cooperatives obviously have serious impacts on American taxpayers and this country's energy use. Even though all Americans pay higher taxes to fund these subsidies, the benefits reach fewer than one out of every four American consumers.

The subsidies also exacerbate the federal deficit. As Congress confronts painful budget choices, it makes sense to reexamine these subsidies. They also undermine efforts to use energy wisely and protect the environment by encouraging some consumers to use more electricity than they otherwise might.

The essential question Congress must address is what public policy role, if any, subsidies and preference should continue to have in our national energy policy. They are at odds with efforts to cut federal spending. And they are at odds with recently-passed laws promoting wholesale electricity competition.

Competitive Wholesale Electricity Markets

Proponents of a closed PMA asset sale to only preference customers ignore the realities of an increasingly competitive wholesale electricity market. Like the airline, banking and telecommunications industries, the electric utility industry is experiencing growing competitive pressures. Competition will continue to grow due to technological developments, legislative initiatives such as the Energy Policy Act of 1992 and evolving federal and state regulation.

Electric utilities used to build almost all of the generating plants required to serve their customers' needs. Now, non-utility generators provide more than 50 percent of utilities' new capacity needs. FERC's opening of transmission services in the wholesale market will further accelerate wholesale competition.

In addition to this increasingly competitive wholesale electricity market, a growing number of states are looking at ways to make retail electricity markets more competitive. Some states are considering proposals to allow individual consumers to choose their electricity supplier. These proposals are extremely controversial and raise significant issues, including their impact on smaller customers, environmental and social programs, recovery of utility investments made under the current regulatory compacts and federal/state jurisdiction.

Utilities are moving aggressively to respond to these competitive pressures by restructuring their operations, cutting costs, downsizing and developing new opportunities to meet their customers' needs. However, for all electric consumers to benefit from competitive wholesale markets, it is imperative for federal, state and local governments to eliminate the subsidies they provide to certain types of utilities. In a free-enterprise system, federal subsidies to utilities are contradictory with efficient competition.

CONCLUSION

An open sale of the PMA's will promote competition in the wholesale electricity market. A closed sale will not. A closed sale will only perpetuate government subsidies and preference treatment to certain types of electricity suppliers, actions that are inconsistent with policies promoting efficient competition. If the economic efficiencies of wholesale competition are to be realized by all of society, federal subsidies to power suppliers must end.

We urge Congress to move forward with sale of the PMA's. We urge that it be done through an open sale that maximizes value to the federal Treasury, while providing rate protection to current PMA customers. And we believe that such a move will enhance the development of competition in wholesale electricity markets, to the benefit of all American consumers.

Asset Valuation Estimates & Impact of Market Prices on Residential Bills

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	Net Book Value	Unpaid Federal Investment	President's Budget Estimate	Std. DCF Valuation Using Market Rates	Potential Increase to President's Budget	NPV of Potential Fed Income Tax on Purchaser and Bond Buyers
Southeastern (SEPA)	1,539	1,007	909	1,892	+983	+216
Southwestern (SWPA)	797	699	612	1,815	+1,203	+207
Western (WAPA)	<u>4,577</u> \$6,913 M	<u>3,433</u> \$5,139 M	<u>2,863</u> \$4,384 M	<u>5,182</u> \$8,889 M	<u>+2,319</u> +\$4,505 M	<u>+590</u> +\$1,013 M

Impact on Monthly Avg Residential Bills²

% of Customers Impacted by Increases of:

	0 to 5%	Over 20%
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Average Wholesale Rates

	PMA Cents/kwh	Market ¹ Cents/kwh
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SEPA	1.89	3.11
SWPA	1.23	2.76
WAPA	1.81	3.09

	94%	0 %
	73%	3%
	90%	0.2%

¹ Based on prices for resale of 20 IOUs in SEPA area, 15 in SWPA area, and 29 in WAPA area.

² Impacts on customers of municipal distributors and cooperatives.

Increases passed through proportionately to residential, commercial, industrial and other customers. Using unlikely assumption of instantaneous change from current to market rates with no period for transition.

The EOP Group, Inc.

April 13 1995

IMPACT OF MARKET PRICES ON RESIDENTIAL CUSTOMERS OF COOPERATIVES AND MUNICIPAL DISTRIBUTORS¹

	% of Residential Customers Impacted by Bill Increases of:			
	<u>0 - 5%</u>	<u>5% - 10%</u>	<u>10 - 20%</u>	<u>Over 20%</u>
Southeastern (SEPA)	94%	6%	0%	0%
Southwestern (SWPA)	73%	17%	7%	3%
Western (WAPA)	90%	8%	1.8%	0.2%

¹Increases passed through proportionately to residential, commercial, industrial and other customers. Using unlikely assumption of instantaneous change from current to market rates with no period for transition.

Definitions for Asset Valuation Estimates

"Net Book Value" -- Latest annual report statement of net utility plant including Construction Work In Progress (CWIP)

"Unpaid Federal Investment" -- Latest annual report statement of federal appropriation and borrowings from Federal Government to be paid

"President's Budget Estimate" -- Privatization Valuation of PMA used in FY 1996 Budget Submission

"Std. DCF Valuation Using Market Prices" -- The discounted cash flow (DCF) value of the PMA using standard techniques assuming its prices are the current market prices for wholesale power which are determined by averaging the prices for resale by the larger IOUs in or adjacent to the PMA area.

DCF Analysis Assumptions

After transition to market, no rate increases or demand increases during the 20-year period

No changes in raw material costs or other expenses, other than depreciation and annual interest expense used in determining tax liability, during the 20-year period

Tax depreciation: ACRS applied to the full purchase price over 20 years, using the 150% declining balance method and half-year convention

Purchase price reflects fair value of assets, therefore there is no good will subject to longer term amortization

No working capital is required

IOU average income tax rate of 27.4%

Purchase of PMA financed with 50% debt, 50% equity

8.75% discount rate.

Mr. BURR [presiding]. Thank you, Mr. Kuhn. We're going to play a little swap here as we try to keep this hearing going while we start votes. I will take the benefit of being the Chair and ask questions.

Mr. KUHN. I fully understand, Mr. Chairman.

Mr. BURR. You addressed rate protection of current utility customers. Do you mean retail rates?

Mr. KUHN. I would certainly extend it to retail rates. I don't see any problem with doing that, Mr. Chairman. I think that that is an issue that has been raised and it is obviously a very volatile one that stirs emotions and concerns in current customers and I think is probably the biggest political impediment to going ahead with these sales because the current customers get scared.

The Congress has it fully in its jurisdiction to address that rate issue and to up a rate cap or to use some other mechanism to hold those rates to whatever level that you deem appropriate.

And I might also add, Mr. Chairman, that as you very rightly pointed out, that if you do impose rate caps, that can affect the ultimate sale price of the assets. But in a study that was done by the EEOP group once again, they analyzed the effect of holding rates to a 5 percent increase over a 10-year period. That's a 5 percent total increase over a 10-year period, and that only reduced the value of those assets by \$1 billion which is, again, a greatly higher value than the value that has been assumed by the Federal Government in the sale.

Our estimate is that the value of these three Power Market Administrations is somewhere close to \$9 billion, so if you, again, put a rate cap in of 5 percent over a 10-year period, we estimate that would only be reduced by \$1 billion. That's significantly above the \$4 billion that the administration has estimated that it would experience from the sale of the PMA's if it were sold to their preference customers.

Mr. BURR. Okay, that's addressing one condition. Let me probe on just a little bit further because I think you listened to Chair Moler and the representative from DOE, and I think there are a lot of concerns out there about how specific this legislation should be, far beyond rate caps. And one would deal with future licensing agreements on facilities.

What effect would that have on marketability and consequently, the price?

Mr. KUHN. Well, Mr. Chairman, I fully agree with Chair Moler's testimony on several points. Basically, she talked about the licensing of the facilities itself and indicated that there are ways to address that issue. One would be to have the purchasers accept the current operating conditions for a period of time, for example, perhaps 10 years, and then to relicense those facilities at that point in time.

Again, from an environmental standpoint, they would be accepting the current operating conditions. You would have the same conditions at those facilities for a 10-year period. And again, they would have to come in and relicense them before FERC at that point in time.

That is one option. We would obviously probably prefer maybe a longer one because the FERC licensing process can be a fairly long

and extended one. But I think that is a way to deal with that particular issue.

On the other points that Chair Moler addressed with respect to the comparable transmission and the authority over the rates, terms and conditions of transmission, we fully agree that if these facilities are sold, they should be subject to the same terms and conditions and subject to FERC jurisdiction.

Mr. BURR. If these assets were sold to the highest bidder, the cost of the purchase would not be eligible for rate base. Now, where is Edison Electric and its membership on that? I think DOE said that.

Mr. KUHN. Mr. Chairman, number one, the electric business is now a competitive business, and I think the rates, with very greatly increasing wholesale competition, are being decided more by the marketplace.

But in effect, if you sold these in an open market and they did go to investor-owned utilities, you would have the rate protections of the Federal Energy Regulatory Commission, as well as the state regulatory commissions, in addition to the marketplace.

You know, second, if you do sell them strictly to the preference customers, you don't have those same kinds of jurisdictions to have authority in protecting the rates that the customers might otherwise have under those regulatory schemes.

Mr. BURR. Where do you recoup the purchase price?

Mr. KUHN. I think basically you recoup the purchase price just like any other investment that you make, Mr. Chairman. In a competitive market, we would look at the facilities, their value. We feel very strongly that in a privatized market you would get greater operating efficiencies. And in a competitive market, certainly these things accrue to the benefit of electricity consumers.

This is the same reason why government generation and electric facilities around the world are being privatized right now, because they can operate more efficiently in the private sector.

Mr. BURR. Well, I would agree with you that there is a trend towards privatization and towards the Federal Government relinquishing control of quite a few things, not as many as I'd like to see.

And I think the responsibility that we have here is one, the decision has been made to sell the PMA's. I think that this committee certainly is looking at what specifics need to be in the legislation to assure the utility customers of a slow growth in rates, to assure the communities where these facilities are, and I think that there's still a debate as to whether we should sell the dams or still keep government control of the dams, but I think we also, as I said to Chair Moler, have some concerns about as we put these conditions on, two things are created.

One, the cost for government to assure that these conditions are met goes up. And two, the sale price comes down. Am I right or wrong on that?

Mr. KUHN. Mr. Schaefer, I fully—I mean, excuse me, Mr. Burr—I fully agree—

Mr. BURR. I take no offense, Mr. Kuhn. I'd like that in the record please.

Mr. KUHN. Mr. Chairman, I fully concur with your statement about the things that need to be covered in this legislation. I also, again, agree with your comment that depending on what terms and conditions you put on, it does affect the value of the bids that you might receive, but I guarantee you those bids will be a lot higher if you do put them out to an open bidding process, as opposed to selling them to their preference customers strictly at their current asset value.

You would also be foregoing the taxes that are paid to the Federal Treasury each and every year by taxpaying entities, assuming that they would win the bid. This is a situation on the tax side of the equation that I think one should look at, also.

Electric utilities in this country pay \$7 billion a year in Federal taxes. That is not the situation with respect to the preference customers that are otherwise being considered for directly transferring ownership to these entities.

Also, I would suggest that if these entities are being purchased by preference customers, that they now be allowed to use tax-exempt financing.

Mr. BURR. If, in fact, and I think you stated in your testimony that PMA assets, upon privatization, should be subject to FERC's full jurisdiction; now, if a municipality purchases the assets of a PMA, should that entity then become subject to FERC rates or corporate regulations?

Mr. KUHN. I think that, Mr. Chairman, if a municipality was the winning bidder, and I would hope that the only way that they would be able to become the purchaser would be in a winning bid situation, that they should be fully subject to FERC jurisdiction.

Mr. BURR. In your mind, would that be a departure from the existing regulatory treatment of such an entity as a municipality?

Mr. KUHN. I think that as Chair Moler suggested, it would be, and it should be in today's competitive marketplace.

Mr. BURR. Would that, in your mind, require some significant changes to the Power Act?

Mr. KUHN. I think it would require changes, as suggested in Chair Moler's testimony, that would be needed in this legislation to accomplish that.

Mr. BURR. I hope you can see that we're somewhat confused on this committee with the detail that's lacking. I think, just after reading Congressman Foley's plan, though it's simple and it sounds good, that it doesn't address all the what-ifs that those individuals who might like to bid, those individuals who currently are involved and are consumers of this power that's generated by PMA's—in fact, I'm not sure that we can get every little angle on this sale prior to it.

How do you see that affecting the interest of private sector companies that might be interested in bidding on these? I mean, I see a deterioration of the sale cost. And I realize that with open bidding, you feel, with every condition that we could put on them, we could achieve higher than the \$4 billion.

Mr. KUHN. A great deal higher.

Mr. BURR. Is there any one thing that you see that has been discussed that would devalue the bids significantly?

Mr. KUHN. Mr. Chairman, I really don't see any major impediments. I really don't see it as that complex a situation. These are technical changes in the rules. I think that it is not a complex situation.

You, as the legislators, really have to decide the main issue, which is the rate issue, and that is the rate protection issue.

Once that is decided, I don't think that the other questions that you deal with, that Chair Moler very much suggested, would be jurisdictional questions that should be dealt with in this legislation that we agree with, are that terribly complex.

Mr. BURR. I thank you for your answers and I'm going to hand the chair off and run.

Mr. KUHN. Thank you, sir.

Mr. SCHAEFER. Mr. Kuhn, how long does it take FERC to issue a hydroelectric license?

Mr. KUHN. It can be very long, Mr. Chairman, sometimes 10 years or longer. I've seen it go up to 10, 15 years or so.

Mr. SCHAEFER. And for what reasons? What seem to be the biggest hang-ups?

Mr. KUHN. Well, the main issues are issues of water rights, of environmental issues, water flows—you name it—State, Federal jurisdictional questions.

Mr. SCHAEFER. Let me ask you, would EEI support a provision in the legislation which would provide that the privatized dams would not have to be licensed for a period of time? And if so, what period of time would be acceptable?

Mr. KUHN. We very much would support that kind of condition, Mr. Chairman. Mr. Foley has in his legislation 10 years. Because the process can be longer, we would probably suggest a longer period of time, but I think that basically you should also remember that whoever would be the purchaser would operate those dams under the current conditions, would capture the current operations conditions that are currently being applied to those facilities. So, you know, the net impact would be no change until you did relicense that situation.

Mr. SCHAEFER. I seem to think that maybe 10 years might be a little bit short, and maybe it should be pushed to 20, 25 years. How would you react to that?

Mr. KUHN. I think that would give a great deal of comfort to investors, that you would be able to operate those facilities under the current operating conditions for 20 to 25 years and that would give a great deal of assurance to investors. And again, you would be subject to the relicensing when that term expired, and perhaps different conditions at that time. But it would certainly facilitate the sale if you did that kind of provision.

Mr. SCHAEFER. It seems to me it would. A longer period, they'd be much more comfortable in investing in it.

Your testimony refers to capturing the current operating conditions of the facility as a FERC license with a specific minimum license term, after which the facilities would be subject to FERC's normal relicensing process.

How long would it take for the PMA hydroelectric facilities to be brought up to FERC's standards that we're talking about?

Mr. KUHN. Well, I think, as Chair Moler indicated, there are a lot of facilities out there, and I would hope that Federal Government would be operating them at FERC standards at the current time. But I think you have to look at that on a case by case basis, Mr. Chairman. I don't know how to assess them individually.

But presumably, as she indicated, the Corps of Engineers if fairly adept at running these facilities, and we would think that the current operating conditions would be fairly high and fairly good.

Mr. SCHAEFER. Well, what is the difference between the Corps standards and FERC standards? I know they deal with some different things?

Mr. KUHN. Well, I'm not sure that they do deal with different things. I think they deal with many of the same issues. I could probably do an analysis of that.

Mr. SCHAEFER. For example, from the safety standpoint of the dams, the Corps really knows a little bit more about that than FERC.

Mr. KUHN. The Corps may know more about that than FERC but I'm not sure that they know more about that than electric utilities. There are many electric utilities in this country that run dams and have conditions that are probably very similar to the ones that the Corps operates under and I think are doing a very good job of making sure that those facilities are run in a way that—

Mr. SCHAEFER. Of course, I would imagine that if there was privatization, whoever the bidders were would certainly be inspecting the facilities quite strenuously prior to bidding on them, I would think. Wouldn't that be the case?

Mr. KUHN. Well, I think that obviously the investors would be doing that. I think that you would probably have a bidding team with investment bankers involved at DOE to analyze the facilities and that would be for sale and obviously, the specific interested buyers.

And again, I would say that could be investor-owned utilities; it could be public power; it could be co-ops; it could be independent power producers that would perhaps have an interest in those facilities. But there would be a great deal of due diligence on what the facility's condition is.

Mr. SCHAEFER. I imagine there would be.

Now, if the FERC had the authority to withhold the hydroelectric license from a privatized facility, the ability of potential purchasers to obtain financing would be impacted, would it not?

Mr. KUHN. It would be very much impacted, Mr. Chairman. I think that the investors would need the assurance that the facilities being purchased could be run for a period of time. And if there was a relicensing situation, what would be the impositions on that relicensing?

So that is why, again, as you suggested, we think that a period of time does need to be put into place here in which the facilities could be run under current operating conditions.

Mr. SCHAEFER. Should FERC be given the authority to say no to a request for a hydroelectric license from a former PMA?

Mr. KUHN. Should they be given the ability to say no to a—

Mr. SCHAEFER. Request for a hydroelectric license from a former PMA facility.

Mr. KUHN. I think that FERC should have that authority, absolutely. I would very much agree with that.

Mr. SCHAEFER. Well, I think that pretty well takes care of the questions I have and I think that Mr. Pallone may have some written questions, Mr. Kuhn. We appreciate the fact that you are here today and any further questions will be submitted in writing.

Mr. KUHN. We'll be very pleased to answer them, and than you very much for the opportunity, Mr. Chairman.

Mr. SCHAEFER. Thank you. The subcommittee is now adjourned. [Whereupon, at 12:36 p.m., the hearing was adjourned.]

[The following material was received for the record:]

PREPARED STATEMENT OF THE AMERICAN PUBLIC POWER ASSOCIATION

The American Public Power Association (APPA) appreciates the opportunity to submit this statement for the record of the subcommittee's hearing held on July 19, 1995 regarding regulatory issues related to transferring federal power marketing administration (PMA) facilities and functions to non-federal entities. These issues arise from the subcommittee's consideration of H.R. 1801, by Congressman Mark Foley.

APPA is the national service organization representing the interests of over 2,000 local publicly owned electric utilities operating in 49 states, Puerto Rico, Guam, American Samoa and the Virgin Islands. More than 550 such systems purchase power from the PMA's including the Western Area Power Administration, the Southwestern Power Marketing Administration, and the Southeastern Power Marketing Administration. A list of all purchasers of federal power is attached.

As indicated in the attached resolution adopted by APPA's membership at our annual business meeting on June 27, 1995, APPA continues to support federal ownership of the PMA's and opposes privatization to investor-owned utilities. Obviously, we oppose H.R. 1801. In addition, in order to preserve competitive positions and protect consumer interests, APPA is willing to consider alternatives that would protect and enhance the benefit of the PMA's for both the federal government and publicly owned electric utilities.

Alternatives could include a transfer of greater responsibility over the facilities from the relevant federal agencies to the current customers. Such an arrangement could virtually eliminate federal financial and operational roles and reduce federal payrolls in the PMA's while allowing the federal government to retain title to the PMA facilities.

The subcommittee's hearing on this issue is predicated on the assumption that legislation such as H.R. 1801 to transfer the PMA's to non-federal entities will be part of the final budget reconciliation bill currently pending in Congress. APPA believes that such an assumption is premature at best. H.R. 1801 is not under active consideration by the House Resources Committee, the panel that has jurisdiction over any disposition of the PMA's. Moreover, neither the Resources Committee nor the Senate Energy and Natural Resources Committee (the Senate committee of jurisdiction) have even released draft proposals indicating how they intend to meet their budget requirements. To the contrary, there is evidence of substantial opposition to a sale of the PMA's in the 104th Congress. At the conclusion of a recent hearing by the Senate Energy and Natural Resources Committee on this issue, Chairman Murkowski declared that there were not enough votes on the committee for a sale of the PMA's. In addition, during consideration of its budget resolution, the Senate added a sense of the Senate amendment stating that the necessary budget savings should be achieved from mandatory energy programs other than sale of the PMA's.

Nevertheless, we respect the subcommittee's jurisdiction over energy regulation and its desire to look forward to consider the regulatory consequences of a possible transfer of PMA assets. APPA's comments will briefly address the treatment of three regulatory issues—rates, FERC licensing, and transmission access—relative to three possible dispositions: sale to investor-owned utilities; sale to publicly-owned utilities; and transfer of control and operation to publicly-owned utilities.

In general, APPA believes that, if the facilities currently owned by the PMA's are transferred out of federal control or ownership, the applicable regulations should be those that now govern the type of entity to which the facilities are sold or transferred. Thus if they were to be sold to investor-owned utilities, the generation and transmission facilities would be subject to FERC and state public utility commission

regulation as applicable for rates, transmissions access, and licensing. Since the hydroelectric facilities are currently not licensed pursuant to federal ownership, purchase by a new entity, therefore, might require licensing. Similarly, if control or ownership of the PMA facilities is transferred to the current customers, rate and other regulation should be the jurisdiction of the current rate-setting and regulatory entities as applicable.

Rates

Wholesale rates for power generated by municipal utilities are not subject to FERC review, and FERC provides only limited review of PMA rates. For municipal utilities, rates for retail power sales are set by the local rate setting authority, generally, the city council or an elected board. If ownership or control of the PMA's is transferred to the current customers, establishment of the rates for power generated at these facilities would be governed by the terms and conditions of the contracts and repayment formulas in place related to the power allocations from these facilities and consistent with the requirement for cost-based rates. However, as discussed below, transmission rates charged by municipal utilities for the PMA transmission facilities would probably be subject to FERC rate regulation as a practical matter.

Hydroelectric Licensing

As mentioned above, purchase of the generation facilities might trigger FERC licensing requirements. This would be true whether the purchaser was an investor-owned utility or publicly-owned utility. Congress, of course, could direct whether these projects should be licensed by FERC or whether to award the transferees a limited or perpetual license directly. On the other hand, if the facilities remain under federal ownership with a transfer of only operation and control of the assets, FERC jurisdiction under Part 1 of the Federal Power Act (FPA) would not apply. Under this type of PMA asset disposition, no change would be necessary with regard to FERC licensing since the federal government would retain ownership of the facilities.

Transmission Access

Under the provisions of the Energy Policy Act of 1992 (EPAAct), all electric utilities are subject to FERC jurisdiction under Section 211 of the FPA. In general, however, municipal utilities and rural electric cooperatives are not subject to rate review under Sections 205 and 206. Municipal utilities are exempt from the FPA's definition of "public utility" as it applies in those sections and cooperatives are exempt as a result of their regulation by the Rural Utilities Service.

FERC has used its mandate under Sections 205 and 206 to prevent "undue discrimination" as the basis for requiring open access, comparability tariffs under its pending Notice of Proposed Rulemaking (NOPR). Concern has been expressed that if the PMA's were purchased by the existing customers, the transmission facilities would not be subject to FERC's authority under Sections 205 and 206 and thus no such tariffs would be filed for these facilities. APPA does not believe this is an issue.

Notwithstanding the fact that municipal utilities and rural cooperatives are exempt from the direct jurisdiction of FERC under Sections 205 and 206, we believe that, as a practical matter, these facilities will be covered by the rules resulting from the NOPR. This will likely occur in two ways:

- 1) The reciprocity provisions of the NOPR require any utility requesting transmission service to provide transmission service under the same comparability standards. The steady increase in more efficient use of available transmission facilities plus the nature of day-to-day transactions between utilities to meet short and long term fluctuations in load conditions will result in numerous tariff filings under these reciprocity provisions.

- 2) Under FERC's guidelines, any participant in a Regional Transmission Group (RTG) must have an open access comparability tariff. Thus, any electric utility participating in an RTG would be subject to the same FERC transmission policies as any "public utility". In fact, municipal utilities were among the first to champion the RTG concept and led in the development of RTGs in several regions of the country.

As a result of these policies, any transfer of the PMA transmission facilities, regardless of the type of transfer or recipient, would subject these facilities to the same regulatory treatment as public utilities. APPA played a leadership role in the formation of the transmission policies in EPAAct under which FERC is now developing the implementation rules. APPA continues to support open, non-discriminatory access to all transmission facilities.

Conclusion

One of the essential tenets underlying EPAct and its implementation by FERC is to promote greater competition in the electric utility industry. APPA supports that goal and continues to work with the Congress and FERC to achieve it. Any transfer of the PMA's to investor-owned utilities, however, would significantly alter the competitive relationship in the industry to the detriment of consumer-owned utilities. This policy matter is of much greater issue and magnitude than the regulatory treatment of these facilities should they be transferred from federal ownership.

APPA believes that if a transfer to the current customers occurs, regulation of the facilities should be consistent with the regulatory requirements for the type of entity to which the facilities are transferred. No additional requirements are necessary to ensure that effective competition will be maintained and that the goals of the EPAct, and the policies of FERC are achieved.

However, if the assets are transferred to investor-owned utilities, particularly under an auction process, there could be substantial impacts on the industry with regulatory impacts that the subcommittee should consider. For example, there would be substantial rate increases, particularly if the power is then sold at market rather than cost based rates. To mitigate rate increases, some sale proposals have included rate caps. Such caps at best only defer the inevitable rate increases. Further rate caps imply additional regulatory involvement in a time when less regulation not more is the preferred course.

Again we appreciate the opportunity to submit this statement and we look forward to working with the subcommittee on these issues and all other energy policy matters.

Attachments: Resolution adopted by APPA membership, June 27, 1995. List of federal power customers of SEPA, SWPA, and WAPA. List of the federal and state agency purchasers of SEPA, SWPA, and WAPA.

FUTURE OF THE POWER MARKETING ADMINISTRATIONS

For more than a decade, efforts to privatize the federal Power Marketing Administrations (PMA's) have been defeated through the combined efforts of federal power customers and their congressional supporters. Currently, both the Administration and Congress are aggressively advocating sale of the PMA's, with the debate focusing on transferring the PMA's to existing customers or auctioning the PMA's to the highest bidder. In addition the abolishment of the federal Department of Energy is being seriously considered.

Existing federal-power allocations serve as a fundamental component of the bulk power supply of more than 1,100 consumer owned utilities. Transferring ownership or control of this resource to private utilities would cause substantial economic dislocation in the communities currently served by federal power and would drastically distort competitive relations within the electric utility industry. In 1986, Congress determined in the Electric Consumer Protection Act that the economic value of low-cost hydropower facilities should be preserved for the customers of those utilities that had previously depended upon those resources. Auctioning the PMA's to the highest bidder would run counter to that precedent.

NOW, THEREFORE, BE IT RESOLVED: the American Public Power Association (APPA) continues to support federal ownership of PMA's, the preference principle and cost-based pricing of hydropower generated at federal dams.

BE IT FURTHER RESOLVED THAT: while APPA continues to oppose the privatization of the PMA's, in order to preserve competitive positions and protect consumer interests APPA is willing to consider alternatives that preserve and enhance the value of federal assets for firm power customers; and

BE IT FURTHER RESOLVED THAT: APPA supports in principle the guideline drafted by the APPA Ad-Hoc Task Force on PMA Enhancement concerning changes to the PMA's.

Public Power Systems that Received Power from SEPA, SWPA or WAPA in 1993

Utility Name	State		
Southeastern Power Administration		Palmetto City of	GA
Albertville Municipal Utilities	AL	Quitman City of	GA
Alexander City City of	AL	Sandersville City of	GA
Bessemer Electric & Water Serv	AL	Sylva City of	GA
City of Athens Utilities	AL	Sylvester City of	GA
City of Florence Utilities	AL	Thomasville City of	GA
Courtland Electric Department	AL	Thomasville City of	GA
Cullman Power Board	AL	Washington City of	GA
Decatur Utilities	AL	West Point City of	GA
Dothan City of	AL	Whigham City of	GA
Evergreen City of	AL	Benton Electric System	KY
Fairhope City of	AL	Bowling Green Municipal Util	KY
Foley City of (Rivers Util)	AL	Franklin Electric Plant Board	KY
Fort Payne Improvement Auth	AL	Fulton Electric System	KY
Guntersville Electric Board	AL	Glasgow Electric Plant Board	KY
Hartford City of	AL	Henderson City Utility Comm	KY
Hartselle Utilities	AL	Hickman Electric System	KY
Huntsville Utilities	AL	Hopkinsville Electric System	KY
Lafayette City of	AL	Maryfield Electric & Water System	KY
Lanett City of	AL	Monticello Electric Plant Board	KY
Luverne City of	AL	Murray Electric System	KY
Muscle Shoals Electric Board	AL	Paducah Power System	KY
Opelika City of	AL	Princeton Electric Plant Board	KY
Piedmont City of	AL	Russellville Electric Plant Board	KY
Robertsdale City of	AL	Aberdeen Electric Department	MS
Russellville Electric Dept.	AL	Amory Electric & Water Dept.	MS
Scottsboro Electric Power Board	AL	Canton Municipal Utilities	MS
Sheffield Utilities	AL	City of Itta Bena	MS
Sylacauga City of	AL	City of Leland Electric Dept.	MS
Tarrant Electric Dept.	AL	Clarksdale Public Utilities	MS
Troy City of	AL	Columbus Light & Water Dept.	MS
Tusculum Electric Dept.	AL	Durant Light & Water Dept.	MS
Tuskegee City of	AL	Greenwood Utilities Commission	MS
Chattahoochee City of	FL	Holly Springs Electric Dept.	MS
Quincy City of	FL	Kosciusko Light & Water Dept.	MS
Acworth City of	GA	Louisville Electric System	MS
Adel City of	GA	Macon Electric Department	MS
Albany Water Gas & Light Comm	GA	Municipal Energy Agency of MS	MS
Barnesville City of	GA	New Albany Light, Gas & Water	MS
Blakely City of	GA	Okaloosa Electric Department	MS
Brinson Town of	GA	Oxford Electric Department	MS
Buford City of	GA	Philadelphia Utilities	MS
Cairo City of	GA	Public Service Commission of Y	MS
Calhoun City of	GA	Stantville Electric System	MS
Carmela City of	GA	Tupelo Water & Light Dept.	MS
Cartersville City of	GA	Water Valley Electric Dept.	MS
Chickamauga Electric System	GA	West Point Electric System	MS
College Park City of	GA	Apex Town of	NC
Commerce City of	GA	Ayden Town of	NC
Covington City of	GA	Bethaven Town of	NC
Crisp County Power Comm	GA	Benson Town of	NC
Dalton City of	GA	Bostic Town of	NC
Dorran City of	GA	Cherryville City of	NC
Douglas City of	GA	Clayton City of	NC
East Point City of	GA	Concord City of	NC
Elberton City of	GA	Cornelius City of	NC
Ellenboro City of	GA	Dallas Town of	NC
Farburn City of	GA	Dressel Town of	NC
Fitzgerald Wtr Lgt & Bond Comm	GA	Edenton Town of	NC
Forsyth City of	GA	Elizabeth City City of	NC
Fort Valley Utility Comm	GA	Enfield Town of	NC
Grantville City of	GA	Farmville Town of	NC
Griffin City of	GA	Fayetteville Public Works Comm	NC
Hampton City of	GA	Forest City Town of	NC
Hogansville City of	GA	Framont Town of	NC
Jackson City of	GA	Gastonia City of	NC
La Fayette City of	GA	Granite Falls Town of	NC
La Grange City of	GA	Greenville Utilities Comm	NC
Lawrenceville City of	GA	Hamilton Town of	NC
Mansfield Town of	GA	Hartford City of	NC
Marionette City of	GA	Hobgood Town of	NC
Monroe Water Light & Gas Comm	GA	Hookerton Town of	NC
Monticello City of	GA	Huntersville Town of	NC
Moultrie City of	GA	Kings Mountain City of	NC
Newnan Wtr Sewer & Light Comm	GA	Kinston City of	NC
Norcross City of	GA	La Grange Town of	NC
		Landis Town of	NC
		Laurens City of	NC

Abbeville, City of	LA	Duncan City of	OK
City of Alexandria	LA	Eldorado City of	OK
Erath, Town of	LA	Gallity Public Works Authority	OK
Gueydan, Town of	LA	Grand River Dam Authority	OK
Jonesville, City of	LA	Granite City of	OK
Kaplan, City of	LA	Hornady City of	OK
Lafayette City of	LA	Lexington Town of	OK
Louisiana Energy & Power Auth	LA	Meritau City of	OK
Minden Light & Water Dept	LA	Miami, City of	OK
Morgan City, City of	LA	Oldshome Municipal Power Auth	OK
Natchitoches City of	LA	Okustee City of	OK
New Roads, City of	LA	Pawnee, City of	OK
Pasquimine City Light & Water	LA	Pryor, City of	OK
Rayne, City of	LA	Purcell City of	OK
Ruston	LA	Ryan Town of	OK
St. Martinville, City of	LA	Salesaw, City of	OK
Terrebonne Parish Utilities Dept	LA	Slatstook Town of	OK
Vidalia, Town of	LA	Spiro City of	OK
Vinton Electric Light Dept.	LA	Stillwater Utilities Authority	OK
Welsh, City of	LA	Stowell Utility Dept	OK
Winnfield, City of	LA	Stroud, City of	OK
Albany, City of	MO	Tahlequah Public Works Auth	OK
Bethany, City of	MO	Wagoner Public Works Auth	OK
Butler, City of	MO	Walkers Public Works Authority	OK
Cabool, City of	MO	Webumka City of	OK
Cameron, City of	MO	Yale City of	OK
Campbell, City of	MO	Brownsville Public Utilities Board	TX
Carthage City of	MO	City of Jasper Light & Power	TX
Centrales, City of	MO	Granbury, City of	TX
Chillicothe, City of	MO	Hearne, City of	TX
Columbia Water & Light	MO	Liberty Municipal Electric Sys	TX
Farmington, City of	MO	Livingston Municipal Electric	TX
Fayette, City of	MO	Plains, City of	TX
Fredericktown City Light & Power	MO	Sam Rayburn Municipal Pwr Agncy	TX
Fulton City of	MO	Sanger, City of	TX
Gallatin Municipal Utilities	MO	Seymour, City of	TX
Hannibal, City of	MO	Weatherford Municipal Utility	TX
Hermann City of	MO	Whitesboro, City of	TX
Higginsville City of	MO		
Independence Power & Light	MO	Western Area Power Administration	
Jackson Utilities & Public Works	MO	Aix-Chen Indian Community	AZ
Kennett City of	MO	Arizona Power Authority	AZ
Kirtwood, City of	MO	Arizona Power Pool Association	AZ
Lamar City of	MO	City of Fredonia	AZ
LaPlata, City of	MO	City of Mesa Electric Utility	AZ
Lebanon, City of	MO	Electrical Dist No3 Pinal Cnty	AZ
Mecon Municipal Utilities	MO	Electrical Dist No4 Pinal Cnty	AZ
Malden City of	MO	Electrical Dist No5 Pinal	AZ
Marceline Municipal Utilities	MO	Electrical Dist No6 Pinal Cnty	AZ
Marshall Municipal Utilities	MO	Electrical District No. 2 of P	AZ
Memphis, City of	MO	Maricopa County M W C Dist #1	AZ
Milan, City of	MO	Navajo Tribal Utility Auth	AZ
Missouri Jt Municipal EUC	MO	Page City of	AZ
Monroe City, City of	MO	Roosevelt Irrigation District	AZ
New Madrid City of	MO	Roosevelt Water Conserv Dist	AZ
Nbsa City of	MO	Safford City of	AZ
Odeessa, City of	MO	Salt River Proj Ag I & P Dist	AZ
Owensville, City of	MO	Thatcher City of	AZ
Palmyra, City of	MO	Tohono O'Odham Nation	AZ
Paris, City of	MO	Wellton-Mohawk Irr&Drain Dist	AZ
Poplar Bluff City of	MO	Wickenburg Town of	AZ
Richland, City of	MO	Alameda City of	CA
Rockport, City of	MO	Anaheim City of	CA
Rolls Municipal Utilities	MO	Azusa City of	CA
Salisbury, City of	MO	Banning City of	CA
Shelbina, City of	MO	Biggs City of	CA
Sikeston City of	MO	Burbank City of	CA
Sister, City of	MO	Caleveras Public Pwr Agency	CA
Springfield City of	MO	California Dept-Wtr Resources	CA
Stanberry, City of	MO	Colton City of	CA
Thayer City of	MO	East Bay Municipal Util Dist	CA
Trenton Municipal Utilities	MO	Glendale City of	CA
Unionville, City of	MO	Gridley City of	CA
Vandale, City of	MO	Hayfork PUD	CA
Waynesville, City of	MO	Healdsburg City of	CA
West Plains City of	MO	Imperial Irrigation District	CA
Claremore, City of	OK	Losi City of	CA
Comanche City of	OK	Lompoc City of	CA
Copen Public Works Authority	OK	Los Angeles City of	CA
Cushing, City of	OK		

Metropolitan Water District	CA	New Hampton Municipal Light Plant	IA
Modesto Irrigation District	CA	Onawa City of	IA
Needles City of	CA	Orange City City of	IA
Northern California Power Agnry	CA	Pauline City of	IA
Palo Alto City of	CA	Pringhar City of	IA
Pasadena City of	CA	Remsen City of	IA
Redding City of	CA	Rock Rapids City of	IA
Riverside City of	CA	Sanborn City of	IA
Roseville City of	CA	Shelby City of	IA
Sacramento Municipal Util Dist	CA	Sibley City of	IA
San Francisco City & County of	CA	Sioux Center City of	IA
Santa Clara City of	CA	Spencer City of	IA
Sheasta Dam Area Pub Util Dist	CA	Stanton City of	IA
Sheasta Lake	CA	Villeca City of	IA
Sonoma County WA	CA	Wall Lake City of	IA
Trinity County Pub Util Dist	CA	Weber City, City of	IA
Tuolumne County Pub Power Agnry	CA	Woodbine City of	IA
Turlock Irrigation District	CA	Aracida, City of	KS
Utah City of	CA	Ashland, City of	KS
Vernon City of	CA	Belleville, City of	KS
Arkansas River Power Authority	CO	Beloit, City of	KS
Aspen City of	CO	Burlingame, City of	KS
Burlington City of	CO	Cawker City, City of	KS
Canter City of	CO	Centraile, City of	KS
City of Longmont	CO	Dighton, City of	KS
City of Loveland Department of	CO	Enterprise, City of	KS
Colorado Springs City of	CO	Gardiner, City of	KS
Delta City of	CO	Glenco, City of	KS
Denver Water Board	CO	Glen Elder, City of	KS
Estes Park Light & Power Dept.	CO	Hill City, City of	KS
Flaming City of	CO	Lakin, City of	KS
Fort Collins Light & Power Dept	CO	Lincoln Center, City of	KS
Fort Morgan City of	CO	Lucas, City of	KS
Fountain, City of	CO	Manitou, City of	KS
Frederick Town of	CO	Osage City, City of	KS
Glenwood Springs City of	CO	Osborne, City of	KS
Gunnison City of	CO	Seneca, City of	KS
Hadron Town of	CO	St Marys, City of	KS
Holyoke City of	CO	Stockton, City of	KS
Julesburg City of	CO	Washington Municipal Power Plant	KS
La Junta Municipal Utilities	CO	Ada City of	MN
Lamar City of	CO	Adrian Public Utilities Comm	MN
Las Animas Municipal Light & Pwr	CO	Alexandria City of	MN
Oak Creek Town of	CO	Austin, City of	MN
Platte River Power Authority	CO	Barnesville City of	MN
Springfield Municipal Utilities	CO	Benson City of	MN
Town of Holly	CO	Blooming Prairie Public Util	MN
Trinidad Municipal Power & Light	CO	Breckenridge City of	MN
Wray City of	CO	Detroit Lakes City of	MN
Yuma City of	CO	East Grand Forks City of	MN
Alcon City of	IA	Elbow Lake City of	MN
Alta City of	IA	Fairfax City of	MN
Alton City of	IA	Fairmont Public Utilities Comm	MN
Anita City of	IA	Fosston City of	MN
Anthon City of	IA	Grand Marais Public Utilities	MN
Atlantic City of	IA	Granite Falls Town of	MN
Aurelia City of	IA	Halestad City of	MN
Breda City of	IA	Hawley Public Utilities Comm	MN
Coon Rapids City of	IA	Hennepin City of	MN
Corning City of	IA	Jackson City of	MN
Danison City of	IA	Kandiyohi City of	MN
Fonda City of	IA	Lake City, City of	MN
Fontanella City of	IA	Lake Park City of	MN
Giddan City of	IA	Lakefield City of	MN
Graettinger City of	IA	Utchfield Public Utility Comm	MN
Hartan City of	IA	Luverne City of	MN
Hartley City of	IA	Medison City of	MN
Hawarden City of	IA	Marshall City of	MN
Hinton City of	IA	Meerose Public Utilities	MN
Kimballton City of	IA	Moorhead City of	MN
Lake Park City of	IA	Mora Municipal Utilities	MN
Lake View City of	IA	Mountain Lake City of	MN
Laurens City of	IA	New Prague Municipal Util Comm	MN
Lenox City of	IA	Newfolden City of	MN
Manilla Town of	IA	Nilesville City of	MN
Manning City of	IA	North Branch, City of	MN
Maspion City of	IA	Olivia City of	MN
Milford City of	IA	Ortonville City of	MN
Muscadine City of	IA	Owensboro Public Utilities	MN
Neola City of	IA	Preston Public Utilities Comm	MN

Princeton Public Utilities Com	MIN	Howard Greasley Rural PPD	NE
Redwood Falls Public Util Comm	MIN	Imperial, City of	NE
Rochester Public Utilities	MIN	Indiana City of	NE
Sauk Centre City of	MIN	KBR Rural Public Power Dist	NE
Shelly City of	MIN	Kimbrell, City of	NE
Sleepy Eye Public Utility Comm	MIN	Laurel City of	NE
Southern Minnesota Mun Pwr Agny	MIN	Lebanon, City of	NE
Spring Valley Public Utilities	MIN	Lincoln Electric System	NE
Springfield Public Utile Comm	MIN	Lodgepole, City of	NE
St James City of	MIN	Loup River Public Power District	NE
St. Peter Municipal Elec Util	MIN	Loup Valley Rural PPD	NE
Staples City of	MIN	Lyman, Village of	NE
Stephen City of	MIN	Lyons City of	NE
Thief River Falls City of	MIN	McCook Public Power Dist	NE
Tyler City of	MIN	Mitchell, City of	NE
Wadena City of	MIN	Morrill, Village of	NE
Warren City of	MIN	Mullen, Village of	NE
Waseca, City of	MIN	Municipal Energy Agency of NE	NE
Wells Public Utilities	MIN	Nebraska City City of	NE
Westbrook City of	MIN	Nebraska Public Power District	NE
Wilmar Municipal Utile Comm	MIN	Neigh Municipal Power	NE
Windom City of	MIN	Norma Public Power Dist	NE
Worthington Public Utilities	MIN	North Central PPD	NE
Cavaler City of	ND	North Platte, City of	NE
Grafton City of	ND	Northeast Nebraska Rural PPD	NE
Hillsboro City of	ND	Northwest Rural PPD	NE
Hope City of	ND	Omaha Public Power District	NE
Lakota City of	ND	Ord City of	NE
Meddock City of	ND	Oxford Village of	NE
Northwood City of	ND	Pender City of	NE
Park River City of	ND	Pierce City of	NE
Riverdale	ND	Pleasantview City of	NE
Sharon City of	ND	Polk County Rural PPD	NE
Stanton, City of	ND	Randolph, City of	NE
Valley City City of	ND	Red Cloud City of	NE
Allamore, City of	NE	Roosevelt Public Power Dist	NE
Anselmy City of	NE	Sargent City of	NE
Arnold Village of	NE	Schuyler City of	NE
Auburn City of	NE	Seward County Rural PPD	NE
Battle Creek, City of	NE	Shickley Village of	NE
Bayard, City of	NE	Sidney, City of	NE
Beatrice City of	NE	Snyder, City of	NE
Beaver City City of	NE	South Central Public Power Dist	NE
Benkelman, City of	NE	Southern Nebraska Rural PPD	NE
Blue Hill City of	NE	Southwest Public Power Dist	NE
Bridgeport, City of	NE	Spalding Village of	NE
Broken Bow City of	NE	Spencer City of	NE
Burt County Public Power Dist	NE	Stanton County PPD	NE
Burwell City of	NE	Stuart City of	NE
Butler County Rural PPD	NE	Superior, City of	NE
Callaway Village of	NE	Syracuse City of	NE
Cambridge City of	NE	Tecumseh City of	NE
Cedar-Knox Public Power Dist	NE	Twin Valleys PPD	NE
Central City, City of	NE	Wahoo City of	NE
Chappell, City of	NE	Wisnuta Village of	NE
Chamney Rock Public Power Dist	NE	Wayne City of	NE
Cosad, City of	NE	Wayne County Public Power Dist	NE
Crete City of	NE	West Point City of	NE
Cuming County PPD	NE	Wheat Belt PPD	NE
Curtis City of	NE	Wilber City of	NE
Custer Public Power Dist	NE	Winake Village of	NE
David City City of	NE	Wishner City of	NE
Dawson County PPD	NE	Wood River City of	NE
De Witt Village of	NE	York County Rural PPD	NE
DeSmet City of	NE	Aztec City of	NM
Dorchester, Village of	NE	Farmington City of	NM
Elk Creek, Village of	NE	Gallup City of	NM
Elkhorn Rural PPD	NE	Los Alamos County	NM
Emerson, City of	NE	Raton Public Service Co	NM
Fairbury City of	NE	Truth or Consequences City of	NM
Falls City, City of	NE	Boulder City City of	NV
Franklin City of	NE	Colorado River Comm of Nevada	NV
Fremont City of	NE	Lincoln County Pwr Dist #1	NV
Gering, City of	NE	Overton Power Dist #5	NV
Grand Island City of	NE	Aberdeen	SD
Grant, City of	NE	Arlington City of	SD
Greenwood, Village of	NE	Aurora City of	SD
Hastings City of	NE	Badger City of	SD
Holdrege, City of	NE	Beresford City of	SD

Big Stone City of	SD	Parowen City Corp	UT
Brookings City of	SD	Payson City Corp	UT
Bryant City of	SD	Price Municipal Corp	UT
Burke City of	SD	Provo City Department of Energy	UT
Colman City of	SD	Salem City Corp.	UT
Estelline City of	SD	Spring City Corp	UT
Faith City of	SD	Springville City of	UT
Flendreu City of	SD	St George City of	UT
Fort Pierre City of	SD	Strawberry Electric Serv Dist	UT
Groton City of	SD	Utah Municipal Power Agency	UT
Heartland Consumers Power Dist	SD	Algoma Utility Commission	WI
Hecle City of	SD	Arcadia Electric Utility	WI
Howard City of	SD	Black River Falls Municipal Elec	WI
Langford Town of	SD	Boscobel Municipal Utilities	WI
Madison City of	SD	Cashion, Village of	WI
McLaughlin City of	SD	Cedarburg Light & Water Comm.	WI
Miller City of	SD	City of Cuba City	WI
Missouri Basin Mun Power Agncy	SD	City of Kaukauna Electric & Water	WI
Parlier City of	SD	City of Oconomowoc Utilities	WI
Pickstown	SD	Columbus Water & Light Commss	WI
Pierre City of	SD	Eagle River Light & Water Comm	WI
Planderton City of	SD	Eloy, City of	WI
Sioux Falls City of	SD	Fennimore, City of	WI
Tyndall City of	SD	Florence Utility Commission	WI
Vermilion City of	SD	Hartford Utilities	WI
Voigt City of	SD	Hustisford Utilities	WI
Watertown City of	SD	Jefferson Water & Electric Dept	WI
Wessington Springs City of	SD	La Farge Municipal Elec Co	WI
White City of	SD	Lake Mills Light & Water Dept.	WI
Winner City of	SD	Lodi Municipal Light & Water Util	WI
Beaver City Corp	UT	Menasha Electric & Water Util	WI
Blanding City of	UT	Merrillan, City of	WI
Bountiful City City of	UT	Muscoda Light & Water Utility	WI
Brigham City Corp	UT	New Holstein Public Utility	WI
City of Santa Clara	UT	New Lisbon Municipal Light & Water	WI
City of Spanish Fork	UT	New London Electric & Water Util	WI
City of Washington	UT	New Richmond City Utilities	WI
Enterprise City of	UT	River Falls Municipal Utility	WI
Ephraim City of	UT	Singer Utilities	WI
Fairview City Corp	UT	Sturgeon Bay Utilities	WI
Fillmore City Corp	UT	Sun Prairie Water & Light Comm	WI
Heber Light & Power Co	UT	Two Rivers Water & Light Util	WI
Helper City of	UT	Viro Municipal Electric Util	WI
Holden Town of	UT	Watertoo Water & Light Commss	WI
Hurricane Power Committee	UT	Waunakee Water & Light Commss	WI
Hyrum City Corp	UT	Waupun Public Utilities	WI
Intermountain Consumer Power Assoc	UT	Westby Municipal Water & Light	WI
Kaneb City Corporation	UT	Whitesell Municipal Electric Util	WI
Kanosh Town of	UT	Wisconsin Public Power Inc Sys	WI
Kaysville City Corp	UT	Cody Light	WY
Lahi City City of	UT	Gallatin City of	WY
Larven Town Corp	UT	Lusk Light & Power Department	WY
Logan City of	UT	Midvale Irrigation District	WY
Manti Light & Power	UT	Pine Bluffs Light, Water & Pow	WY
Meadow Town Corp	UT	Powell Municipal Electric Dist	WY
Monroe City City of	UT	Torrington City of	WY
Morgan City Corp	UT	Town of Fort Laramie	WY
Mt Pleasant	UT	Town of Guernsey	WY
Murray City of	UT	Town of Lingle	WY
Nepht City Corp	UT	Wheatland Municipal Electric Dist	WY
Oak City Town of	UT	Wyoming Municipal Power Agency	WY
Paragonah Town of	UT		

Source: 1983 Annual Reports for Power Marketing Administrations and APPA data base
includes utilities that receive power directly from PMAs and those that receive PMA power via a wholesaler
such as a joint action agency, the Tennessee Valley Authority or a generation & transmission cooperative

1993 PMA Sales to Federal and Other Governmental Entities
Source: PMA Annual Reports

Governmental Entity	State	Federal or State Govt.	PMA Product	Product	MY93 Sales	Revenue
1 ALASKA DEPT OF FISH & GAME	AK	SG	Alaska Power Administration		1,170	37,566
2 U S AIR FORCE		F	Bonnaville Power Administration		61,439	1,491,000
3 U S ARMY CORPS OF ENGINEERS		F	Bonnaville Power Administration		0	101,000
4 U S BUREAU OF INDIAN AFFAIRS		F	Bonnaville Power Administration		213,002	5,108,000
5 U S BUREAU OF MINES		F	Bonnaville Power Administration		5,014	136,000
6 U S BUREAU OF RECLAMATION		F	Bonnaville Power Administration		137,660	524,000
7 U S DEPT OF ENERGY		F	Bonnaville Power Administration		326,075	7,969,000
8 U S NAVY		F	Bonnaville Power Administration		420,000	10,134,000
9 FT SILL ARMY DEPARTMENT	OK	F	Southwestern Power Administration		196,632	3,163,061
10 MCALESTER ARMY AMMUNITION PLAN	OK	F	Southwestern Power Administration		6,526	207,666
11 VANCE AIR FORCE BASE	OK	F	Southwestern Power Administration		23,957	351,076
12 BUR OF RECLAMATION PROJECT USE	AZ	F	Western Area Power Administration	Central Valley	1,211,825	6,962,666
13 BUR OF RECLAMATION PROJECT USE	AZ	F	Western Area Power Administration	Pick-Steen Mesa	32,043	116,562
14 BUR OF RECLAMATION PROJECT USE	AZ	F	Western Area Power Administration	Central Arizona	15,709	266,553
15 CHANDLER HEIGHT'S CITRUS	AZ	SG	Western Area Power Administration	Sal Lake City	1,499	26,662
16 COLORADO RIVER AGENCY	AZ	F	Western Area Power Administration	Perifer-Davis & Salt Lake City	43,191	415,360
17 DOLORES PROJECT	AZ	F	Western Area Power Administration	Sal Lake City	11,063	206,266
18 ED-5 MARICOPA	AZ	SG	Western Area Power Administration	Sal Lake City	3,361	96,066
19 ED-6 PINAL (SRP)	AZ	SG	Western Area Power Administration	Sal Lake City	2,229	40,073
20 ED-7	AZ	SG	Western Area Power Administration	Sal Lake City	12,471	215,563
21 GILA BEND AIR FORCE	AZ	F	Western Area Power Administration	Perifer-Davis	2,028	16,540
22 LUKE AIR FORCE BASE	AZ	F	Western Area Power Administration	Perifer-Davis	11,469	104,634
23 MARINE CORPS AIR STATION YUMA	AZ	F	Western Area Power Administration	Sal Lake City	10,479	95,032
24 NAVAJO AGRI PROJECTS INDUSTRY	AZ	F	Western Area Power Administration	Sal Lake City	46,799	691,504
25 OCOILLOWIC DISTRICT	AZ	SG	Western Area Power Administration	Sal Lake City	3,198	56,001
26 PAGE MUNI WATER PUMPS	AZ	F	Western Area Power Administration	Sal Lake City	3,275	0
27 PAGE VISITOR CENTER	AZ	F	Western Area Power Administration	Sal Lake City	831	0
28 PHOENIX AREA OFFICE	AZ	F	Western Area Power Administration	Perifer-Davis	3,773	0
29 QUEEN CREEK IRRIGATION DIST	AZ	SG	Western Area Power Administration	Sal Lake City	4,346	75,206
30 SAN CARLOS IRRIGATION PROJECT	AZ	F	Western Area Power Administration	Sal Lake City, Perifer-Davis	63,004	769,917
31 SAN TAN IRRIGATION DISTRICT	AZ	SG	Western Area Power Administration	Sal Lake City	2,675	35,170
32 WILLIAMS AIR FORCE BASE	AZ	F	Western Area Power Administration	Sal Lake City	8,025	122,490
33 YUMA IRRIGATION DISTRICT	AZ	SG	Western Area Power Administration	Perifer-Davis	2,070	30,364
34 YUMA PROVING GROUND	AZ	F	Western Area Power Administration	Perifer-Davis, SIC & Cant. AZ	33,665	559,073
35 AMES RESEARCH CENTER (NASA)	CA	F	Western Area Power Administration	Central Valley	275,366	10,461,462
36 ARVIN EDISON WD	CA	SG	Western Area Power Administration	Central Valley	116,922	3,264,963
37 BANTA-CARBONA ID	CA	SG	Western Area Power Administration	Central Valley	9,415	266,666

1993 PHMA Sales to Federal and Other Governmental Entities
Source PHMA Annual Reports

Commutal Entity	State	Federal or State Govt.	PHMA Project	Project	MMH Sales	Revenue
30 BEALE AIR FORCE BASE	CA	F	Western Area Power Administration	Central Valley	114,135	3,330,417
30 BROWNVIEW WD	CA	SG	Western Area Power Administration	Central Valley	760	34,783
40 BYRON-BETHANY ID	CA	SG	Western Area Power Administration	Central Valley	4,745	154,270
41 CALIF. MEDICAL FACIL./MACAVIL	CA	SG	Western Area Power Administration	Central Valley	10,146	291,300
42 CALIF. STATE UNIV./SACRAMENTO	CA	SG	Western Area Power Administration	Central Valley	36	1,552
43 CALIFORNIA STATE PARKS & REC.	CA	SG	Western Area Power Administration	Central Valley	133	4,913
44 CALIFORNIA STATE PRISON/FOLSOM	CA	SG	Western Area Power Administration	Central Valley	13,000	365,265
45 CAMP PARKS RESERVE TRAINING	CA	F	Western Area Power Administration	Central Valley	1,666	51,349
46 CASTLE AIR FORCE BASE	CA	F	Western Area Power Administration	Central Valley	35,469	1,069,567
47 DAVIS DAM WAREHOUSE	CA	F	Western Area Power Administration	Perlier Devils	2,182	0
48 DELANO-EARLEWART ID	CA	SG	Western Area Power Administration	Central Valley	4,464	126,459
49 DEUEL VOCATIONAL INSTITUTE	CA	SG	Western Area Power Administration	Central Valley	9,598	287,323
50 DOE - LAWRENCE BERKELEY LAB	CA	F	Western Area Power Administration	Central Valley	8,065	270,196
51 DOE - LAWRENCE LIVERMORE	CA	F	Western Area Power Administration	Central Valley	5,170,850	187,544
52 DOE - SITE 300	CA	F	Western Area Power Administration	Central Valley	3,165	66,341
53 DOE - STANFORD LINEAR ACCEL	CA	F	Western Area Power Administration	Central Valley	343,943	8,636,646
54 EAST CONTRA COSTA ID	CA	SG	Western Area Power Administration	Central Valley	1,871	60,263
55 EDWARDS AIR FORCE BASE	CA	F	Western Area Power Administration	Perlier Devils	97,834	795,278
56 FT. MOJAVE INDIAN TRIBE	CA	F	Western Area Power Administration	Perlier Devils	8,622	79,061
57 GEORGE AIR FORCE BASE	CA	F	Western Area Power Administration	Perlier Devils	9,803	90,005
58 GLENN-COLUSA ID	CA	SG	Western Area Power Administration	Central Valley	5,630	179,130
59 JAMES ID	CA	SG	Western Area Power Administration	Central Valley	3,022	80,369
60 KERN-TULARE WD	CA	SG	Western Area Power Administration	Central Valley	3,962	123,110
61 LINDSAY-STATHMORE ID	CA	SG	Western Area Power Administration	Central Valley	4,464	126,456
62 LOWER TULE RIVER ID	CA	SG	Western Area Power Administration	Central Valley	3,741	138,307
63 MAHE ISLAND NAVAL SHIPYARD	CA	F	Western Area Power Administration	Central Valley	130,526	3,710,469
64 MCLELLAN AIR FORCE BASE	CA	F	Western Area Power Administration	Central Valley	85,023	1,666,131
65 NAVAL AIR STATION - LEMORE	CA	F	Western Area Power Administration	Central Valley	79,782	2,229,232
66 NAVAL AIR STATION - MOFFETT	CA	F	Western Area Power Administration	Central Valley	38,708	1,079,204
67 NAVAL COMM. STATION - STOCKTON	CA	F	Western Area Power Administration	Central Valley	16,460	541,570
68 NAVAL RADIO STATION - DIXON	CA	F	Western Area Power Administration	Central Valley	6,847	186,860
69 NAVAL SECURITY - SHAGGS ISLAND	CA	F	Western Area Power Administration	Central Valley	2,782	78,545
70 NAVAL SUPPORT - TREASURE IS	CA	F	Western Area Power Administration	Central Valley	30,665	869,112
71 NAVAL WEAPONS STA. - CONCORD	CA	F	Western Area Power Administration	Central Valley	10,971	343,807
72 NORTHERN CALIFORNIA YOUTH CTR	CA	SG	Western Area Power Administration	Central Valley	9,759	281,103
73 NORTON AIR FORCE BASE	CA	F	Western Area Power Administration	Perlier Devils	12,826	116,793
74 PATTERSON WD	CA	SG	Western Area Power Administration	Central Valley	2,193	79,704
75 PROVIDENT ID	CA	SG	Western Area Power Administration	Central Valley	2,060	64,437
76 RAG GULCH WD	CA	SG	Western Area Power Administration	Central Valley	1,870	62,371
77 RECLAMATION DIST. 2005 BOOSTER	CA	SG	Western Area Power Administration	Central Valley	39	2,063

1993 PMA Sales to Federal and Other Governmental Entities
Source PMA Annual Reports

Governmental Entity	State	Federal or State Govt.	PMA Product	Product	MMH Sales	Revenue
76 RECLAMATION DIST 2035 MAIN	CA	SG	Western Area Power Administration	Central Valley	2,140	79,329
79 SAN JUAN SUBURBAN WD	CA	SG	Western Area Power Administration	Central Valley	1,068	30,579
80 SAN LUIS WD, FITTLE	CA	SG	Western Area Power Administration	Central Valley	1	324
81 SAN LUIS WD, KALLIAN	CA	SG	Western Area Power Administration	Central Valley	86	2,434
82 SANTA CLARA VALLEY WD	CA	SG	Western Area Power Administration	Central Valley	4,952	134,863
83 SHARPE ARMY DEPOT	CA	F	Western Area Power Administration	Central Valley	20,240	612,162
84 SHASTA OFFICE	CA	F	Western Area Power Administration	Central Valley	18	532
85 SIERRA CONSERVATION CENTER	CA	SG	Western Area Power Administration	Central Valley	12,450	347,288
86 TERRA BELLA ID	CA	SG	Western Area Power Administration	Central Valley	4,484	128,489
87 TRACY DEFENSE DEPOT (ARMY)	CA	F	Western Area Power Administration	Central Valley	18,106	509,831
88 TRAVIS AIR FORCE BASE	CA	F	Western Area Power Administration	Central Valley	71,790	2,017,190
89 TRAVIS WHEATRY HOUSING (AF)	CA	F	Western Area Power Administration	Central Valley	6,208	153,157
90 UNIV OF CALIFORNIA, DAVIS	CA	SG	Western Area Power Administration	Central Valley	86,854	2,520,241
91 USA DIXON RELAY STATION	CA	F	Western Area Power Administration	Central Valley	438	12,729
92 WEST STANISLAUS ID	CA	SG	Western Area Power Administration	Central Valley	13,528	418,818
93 WESTLANDS WD ASSUMED PT DEL	CA	SG	Western Area Power Administration	Central Valley	8,842	263,513
94 WESTLANDS WD PUMPING PLT #6-1	CA	SG	Western Area Power Administration	Central Valley	1,417	54,816
95 WESTLANDS WD PUMPING PLT #7-1	CA	SG	Western Area Power Administration	Central Valley	8,008	186,323
96 WESTSIDE ID	CA	SG	Western Area Power Administration	Central Valley	5,344	180,925
97 ARAPAHOE & ROOSEVELT NATL F	CO	F	Western Area Power Administration	Loveland	786	12,587
98 DOE - ROCKY FLATS	CO	F	Western Area Power Administration	Loveland	20,369	305,586
99 NATIONAL PARK SERVICE	CO	F	Western Area Power Administration	Loveland	488	8,363
100 PETERSON AFB	CO	F	Western Area Power Administration	Loveland	28,408	420,959
101 POWER OPERATIONS OFFICE	CO	F	Western Area Power Administration	Salt Lake City	2,877	182,981
102 PUEBLO ARMY DEPOT	CO	F	Western Area Power Administration	Salt Lake City	8,837	23,873
103 SILT WATER CONSERV. DISTRICT	CO	SG	Western Area Power Administration	Salt Lake City	11,348	189,148
104 U S AIR FORCE ACADEMY	CO	F	Western Area Power Administration	Loveland	502	26,331
105 UTAH WATER CONSR DIST	CO	SG	Western Area Power Administration	Salt Lake City	4,327	53,324
107 FERGUS FALLS STATE HOSPITAL	MN	SG	Western Area Power Administration	Pick-Stan Meadows	33,275	381,808
108 SW MINNESOTA STATE UNIVERSITY	MN	SG	Western Area Power Administration	Pick-Stan Meadows	3,648	46,187
109 WILLMAR REGIONAL TREATMT CTR	MT	SG	Western Area Power Administration	Pick-Stan Meadows	357	8,487
110 HAIDLE PUMP	MT	SG	Western Area Power Administration	Pick-Stan Meadows	182	3,048
111 KINSEY IRRIGATION DISTRICT	MT	SG	Western Area Power Administration	Pick-Stan Meadows	1,587	24,231
112 MONTANA STATE WATER/HELENA	MT	SG	Western Area Power Administration	Pick-Stan Meadows	1,326	3,318
113 MONTANA STATE WATER/SIDNEY	MT	SG	Western Area Power Administration	Pick-Stan Meadows	1,587	24,231
114 SCHOOL DISTRICT #21	MT	SG	Western Area Power Administration	Pick-Stan Meadows	1,194	2,908
115 US BUR IND AFFAIRS FRAZERVALL	MT	F	Western Area Power Administration	Pick-Stan Meadows	43	862
116 US BUR IND AFFAIRS 3/4 MILE PUMP	MT	F	Western Area Power Administration	Pick-Stan Meadows	1,880	4,798
117 GRAFTON STATE SCHOOL	ND	SG	Western Area Power Administration	Pick-Stan Meadows	16	41
					4,840	57,860

1993 PMA Sales to Federal and Other Governmental Entities
Source PMA Annual Reports

Governmental Entity	State	Federal or State Govt.	PMA Product	Product	MOH Sales	Revenue
118 MCLEAN-SHERIDAN	ND	SG	Western Area Power Administration	Pick-Steen Mesa	597	8,442
119 ND STATE HOSPITAL - JAMESTOWN	ND	SG	Western Area Power Administration	Pick-Steen Mesa	5,264	69,051
120 NORTH DAKOTA MILL & ELEVATOR	ND	SG	Western Area Power Administration	Pick-Steen Mesa	28,075	317,744
121 NORTH DAKOTA STATE SCHOOL/DEAF	ND	SG	Western Area Power Administration	Pick-Steen Mesa	812	7,714
122 NORTH DAKOTA STATE SCHOOL/SCI	ND	SG	Western Area Power Administration	Pick-Steen Mesa	8,262	110,872
123 NORTH DAKOTA STATE UBOTTINEAU	ND	SG	Western Area Power Administration	Pick-Steen Mesa	871	11,525
124 NORTH DAKOTA STATE WTR. COMM.	ND	SG	Western Area Power Administration	Pick-Steen Mesa	2,473	41,836
125 UNIV OF N. DAKOTA/GRAND FORKS	ND	SG	Western Area Power Administration	Pick-Steen Mesa	46,370	562,362
126 US BUR OF IND AFFAIRS/BELCOURT	ND	F	Western Area Power Administration	Pick-Steen Mesa	2,981	41,066
127 BEATRICE STATE DEVELOP. CENTER	NE	SG	Western Area Power Administration	Pick-Steen Mesa	7,706	95,779
128 HASTINGS REGIONAL CENTER	NE	SG	Western Area Power Administration	Pick-Steen Mesa	5,366	66,869
129 NEBR STATE OFC BLDG/LINCOLN	NE	SG	Western Area Power Administration	Pick-Steen Mesa	2,479	31,337
130 NEBR STATE PENITENTIARY	NE	SG	Western Area Power Administration	Pick-Steen Mesa	8,141	95,869
131 PERU STATE COLLEGE	NE	SG	Western Area Power Administration	Pick-Steen Mesa	2,050	25,748
132 UNIV OF NEBR - LINCOLN	NE	SG	Western Area Power Administration	Pick-Steen Mesa	100,449	1,343,349
133 UNIV OF NEBR - OMAHA	NE	SG	Western Area Power Administration	Pick-Steen Mesa	5,829	73,521
134 WAYNE STATE COLLEGE	NE	SG	Western Area Power Administration	Pick-Steen Mesa	1,889	23,931
135 DOE-ALBUQUERQUE OPERATION	NM	F	Western Area Power Administration	Salt Lake City	124,821	2,789,239
136 HOLLOWAY AIR FORCE BASE	NM	F	Western Area Power Administration	Salt Lake City	8,780	181,880
137 KIRTLAND AIR FORCE BASE	NM	F	Western Area Power Administration	Salt Lake City	17,289	287,969
138 BOULDER CITY OFFICE	NV	F	Western Area Power Administration	Prater Devils	505	0
139 BUR OF RECLAMATION/ PROJECT USE	NV	F	Western Area Power Administration	Prater Devils	114,440	786,462
140 DEPT OF ENERGY NEVADA OFFERS	NV	F	Western Area Power Administration	Prater Devils	11,431	104,332
141 NELLIS AIR FORCE BASE	NV	F	Western Area Power Administration	Prater Devils	14,413	131,197
142 ELLSWORTH AIR FORCE BASE	SD	F	Western Area Power Administration	Pick-Steen Mesa	22,127	280,803
143 NORTHERN STATE UNIV/ABERDEEN	SD	SG	Western Area Power Administration	Pick-Steen Mesa	5,539	78,022
144 REDFELD STATE HOSPITAL	SD	SG	Western Area Power Administration	Pick-Steen Mesa	4,817	62,783
145 S DAK CEMENT PLANT	SD	SG	Western Area Power Administration	Pick-Steen Mesa	17,974	230,256
146 S DAK HUMAN SVCS CITY/ANKTON	SD	SG	Western Area Power Administration	Pick-Steen Mesa	5,943	77,281
147 S DAK SCHOOL OF MINES & TECH	SD	SG	Western Area Power Administration	Pick-Steen Mesa	6,022	108,515
148 S DAK STATE PENITENTIARY	SD	SG	Western Area Power Administration	Pick-Steen Mesa	2,971	36,185
149 S DAK STATE SCHOOL/PLANKINTN	SD	SG	Western Area Power Administration	Pick-Steen Mesa	3,108	36,124
150 S DAK STATE UNIV/BROOKINGS	SD	SG	Western Area Power Administration	Pick-Steen Mesa	34,759	426,936
151 SPRINGFIELD CORRECTIONAL FACIL	SD	SG	Western Area Power Administration	Pick-Steen Mesa	2,502	34,601
152 UNIV OF S DAK/VERMILLION	SD	SG	Western Area Power Administration	Pick-Steen Mesa	36,536	467,904
153 BUR OF RECLAMATION/ PROJECT USE	UT	F	Western Area Power Administration	Provo River	87	0
154 CENTRAL UTAH WATER CONS DIST	UT	SG	Western Area Power Administration	Salt Lake City	6,365	87,804
155 DEFENSE DEPOT OGDEN	UT	F	Western Area Power Administration	Salt Lake City	13,940	250,948
156 DUTCH JOHN CAMP	UT	F	Western Area Power Administration	Salt Lake City	740	0
157 HILL AIR FORCE BASE	UT	F	Western Area Power Administration	Salt Lake City	17,269	287,969

1993 PMA Sales to Federal and Other Governmental Entities

Source PMA Annual Reports

Commercial Entity	Federal or		PMA Product	Product	MWH Sales	Revenue
	State	State Govt.				
156 METROPOLITAN WTR DIST/SALT LK	UT	F	Western Area Power Administration	Prvo River	2	0
156 TOOLE ARMY DEPOT	UT	F	Western Area Power Administration	Salt Lake City	5,296	68,751
160 UNIVERSITY OF UTAH	UT	SG	Western Area Power Administration	Salt Lake City	10,083	268,082
161 UTAH STATE UNIVERSITY	UT	SG	Western Area Power Administration	Salt Lake City	5,901	92,596
162 WEBER BASIN CONSERVANCY DIST	UT	SG	Western Area Power Administration	Salt Lake City	14,170	263,466
163 BUR OF RECLAMATION PROJECT USE	WY	F	Western Area Power Administration	Loveland	9,131	23,605
164 FRANCIS E. WARREN AFB	WY	F	Western Area Power Administration	Loveland	19,630	270,873
165 GOSHEN IRRIGATION DIST	WY	SG	Western Area Power Administration	Loveland	54	666
					5,744,153	107,133,669

Source 1993 Annual Reports for Power Marketing Administrations

PREPARED STATEMENT OF G. STANLEY HILL, ON BEHALF OF SOUTHEASTERN FEDERAL POWER CUSTOMERS, INC.

INTRODUCTION

My name is G. Stanley Hill. I appreciate the opportunity to present the views of the Southeastern Federal Power Customers, Inc. ("SeFPC") related to privatization of the federal Power Marketing Administrations ("PMA's"). the SeFPC represents many of the rural cooperatives and municipally-owned electric systems in the nine states of Alabama, Georgia, Mississippi, Kentucky, North and South Carolina, Florida, Virginia, and West Virginia which purchase power from the Southeastern Power Administration ("SEPA").

The members of the SeFPC are committed to providing reliable and economical capacity and energy to their customers. In some cases as much as 25% of their capacity needs and 10% of their energy needs are supplied by SEPA. The electricity generated at the federal hydropower projects operated by SEPA has contributed significantly to the development of the region and improved the standard of living of its citizens, resulting in a unique partnership between SEPA and its customers.

The SeFPC is strongly opposed to the sale of SEPA to the highest bidder. Such a process would result in significant harm to the communities and businesses that have paid for SEPA's projects and activities for over thirty years. Certain investor-owned utilities are tempting members of Congress with enormous offers for SeFPCs assets. These offers are literally too good to be believed, and, indeed, come with a hidden price.

If Congress passes legislation directing a sale of the PMA's to the highest bidder, there will be no way to control rate increases. Current proposals to cap rates at 10% per year may appear reasonable on the surface, but would in fact produce serious results, including rate shock and, ultimately, voter concern when households start receiving their inflated bills.

In particular, a sale of SEPA's electric generation assets to the highest bidder would result in higher electric rates which will cause harm to businesses, communities and families throughout the Southeast. A representative testifying on behalf of investor-owned utilities before the Senate Energy and Natural Resources Committee admitted that if his company purchased PMA assets, there is no question that the rates would have to be increased to recover the purchase price. Any rate increase to a family or individual on a fixed or low income is a difficult burden to shoulder. This is a hidden tax on consumers.

Further, if an investor-owned utility with an extensive Southeast presence were to purchase these assets, the resulting consolidation of generation assets would undermine electric competition generally in the region. This could also translate into higher rates for all customers in their service territory.

If Congress wishes to privatize SEPA, the appropriate solution is to sell SEPA to the existing firm power customers at a price that will avoid rate increases. This will preserve existing competitive relationships, avoid hidden taxes, and accomplish the goal of getting the government out of the power business.

HISTORY OF SEFPC AND SEPA

When dams were constructed in response to widespread flooding in various parts of the United States, Congress realized that in addition to flood control, the dams presented an opportunity to generate hydroelectric power that could be sold and the revenues from the sale could be used to pay for the dam construction and operation. Federal Power Marketing Administrations were created to market this hydroelectric power in a manner consistent with the public interest.

Congress decided that the public interest would best be served by selling the power to not-for-profit consumer-owned power systems such as municipal electric systems and rural electric cooperatives. Congress further decided that the PMA's would develop cost-based rates that would recover debt repayment for all the cost of power facilities and power generation, and all the expenses of the PMA's themselves. In addition, the power rates would contain a "joint cost" allocation that would recover an allocated share of the dams and reservoirs associated with power generation.

Federal hydropower is an essential ingredient in the mix of power resources relied upon by consumer-owned power systems in the Southeast. Although this federal hydropower was more expensive than other resources when the projects were first built, many eligible preference customers made the conscious decision to enter into contracts for federal hydropower because it was an assured source of power and would allow some degree of independence from other utility systems. In reliance upon this source of power, federal power customers abstained from opportunities to

build other generation. Loss of access to these facilities now will force current federal power customers to build or buy other generation, or to become more dependent on other utilities.

This power is less expensive compared to other sources due to the relatively low cost of construction when most of SEPAs facilities were built approximately three decades ago. The federal hydropower is equivalent to the older, low cost generation resources owned by investor-owned systems that help keep their rates at their current level for consumers. Just as it would be unfair to deprive investor-owned systems of their low-cost generating capacity, it would be unfair to deprive federal power customers of their existing right to his low cost federal hydropower.

This power source is more important than ever for consumer-owned power systems. With the changes that are occurring in the electric utility industry, and the advent of a more competitive environment, utilities clearly need to retain their access to older, less expensive power resources, rather than being forced to exchange them for newer, more expensive resources. To the extent that consumer-owned systems lose access to the less costly hydropower, they will also lose ground in the competition-driven electric utility arena. If investor-owned utilities are allowed to purchase the power generated at federal projects, their competitive posture will be greatly enhanced, while the current customers' competitive posture will be greatly eroded.

REGULATORY ISSUES

Because the SeFPC opposes the current legislative proposals which will direct a sale of the PMA's to the highest bidder, we are not in a position to comment extensively on potential regulatory impacts of PMA privatization. However, we would like to raise two issues with the Committee which we feel should be taken into account.

Stranded Costs

The SeFPC would like to express concern over the potential impact a purchase of SEPA by an investor-owned utility could have on stranded costs. Suppose an IOU were to purchase SEPA through an auction process. If such a purchase resulted in an IOU possessing excess generating capacity, that IOU's rates could rise to recover these excessive costs. This would cause customers to seek to leave the IOU's system. Yet, under rules currently proposed, the IOU could attempt to recover so-called "stranded costs" from those customers who seek to escape the IOU's system. This would create a "heads I win, tails you lose" situation for the IOU: no matter how high the purchase price for SEPA, no matter how unneeded the generation capacity, cost recovery could be assured.

Given this possible scenario, is it any mystery why IOU's want to buy SEPA? Will they guarantee no rate increases for SEPAs customers, or even their own customers? Clearly not.

Effect of the Public Utility Holding Company Act ("PUHCA") on the Purchase of SEPA by a Registered Utility Holding Company

The SeFPC would like to express its concern regarding potential PUHCA implications if a registered utility holding company were to pursue the purchase of SEPA. PUHCA was enacted to protect ratepayers from widespread utility holding Company abuses resulting from self-dealing, cross-subsidization and improper cost allocations. The Act provides for extensive regulation of financial and operational activities, and requires registered holding companies to operate a single integrated system. The SeFPC is unclear how an investor-owned utility will purchase SEPA assets without violating PUHCAs integration requirement.

CONCLUSION

The SeFPC respectfully opposes the sale of SEPA to the highest bidder. The rate increases that would inevitably result are a hidden tax on consumers. We urge the Committee to proceed cautiously in charting the future of SEPA

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